IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP no. 18791 of 2010(O&M)
Date of Decision : 14.08.2012

Kamaljit Walia

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. Raj Mohan Singh, Advocate for the petitioner

Mr. P.S.Thiara, Addl. AG, Punjab

MAHESH GROVER, J

The petitioner is aggrieved by the orders Annexures P-1 and P-3 which have resulted in the assessment being made under Section 47-A Sub clause (3) of the Indian Stamp Act holding that the petitioner is liable to pay excess amount on the instrument of sale registered as the same was shown to be under-valued by him.

The grievance of the petitioner is limited to the extent that the procedure as prescribed under Section 47-A (3) and the Rules pertaining to the inquiry to be conducted by the Collector have not been scrupulously followed.

The solitary contention raised by the petitioner is that according to Rule 4, the Collector is obliged to hold proper inquiry by associating the person who wishes his instrument to be registered and thereafter on conclusion of such an inquiry give his findings thereupon. Undeniably such a process has not been followed as is evident from

Annexure P-1 and Collector merely referred to some earlier report of Sub Divisional Magistrate on the basis of which he has formed his opinion.

For the said reason when a proper inquiry has not been conducted by the Collector in accordance with rules as is stipulated in the statute itself, the assessment made by the Collector cannot withstand the scrutiny of the Court being unjustifiable. For similar reason the appellate order passed on the appeal preferred by the petitioner i.e. Annexure P-3 which does not address this core issue also needs to be set aside. Consequently, the instant petition is allowed and impugned orders Annexures P-1 and P-3 are hereby set aside. However, respondents are at liberty to conduct the entire exercise afresh and after holding an inquiry in accordance with rules, they may frame assessment if the situation so warrants.

August 14, 2012 **(Mahesh Grover)**
rekha **Judge**