**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-28680-2018(O&M)
Reserved on 10.07.2025
Date of decision: 14.07.2025

Uggar Singh **..Petitioner**

Versus

State of Punjab and others **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. L.S.Sidhu, Advocate and
Mr. Ishan Thakur, Advocate
for the petitioner

Dr. D.S.Lamba, Addl. Advocate General, Punjab

***

ANIL KSHETARPAL, J.

I Brief facts of the case:-

1. This matter has been placed before the Division Bench in view of divergence of views by the co-ordinate Benches of this Court. The short question which requires adjudication is "*whether the valuation of the stamp duty should be assessed on the market rate prevailing at the time of the registration of the sale deed or when the parties entered into agreement to sell?*"

II Analysis and Discussion:-

2. This Bench now proceeds to discuss and analyse the statutory provisions and judgments governing the subject of valuation.

3. Payment of stamp duty on sale deeds/conveyance deeds is governed by the Stamp Act, 1899 (hereinafter referred to as '1899

Act', which has been amended not only by the Union of India but also by the States. Relevant bare provisions of the Act read as under:-

> ***2(10) Conveyance***.—*"Conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule I;*
> ***2(14) "instrument"*** *includes—*
>
> *(a) every document, by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;*
>
> *(b) a document, electronic or otherwise, created for a transaction in a stock exchange or depository by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded; and*
>
> *(c) any other document mentioned in Schedule I,*
>
> *but does not include such instruments as may be specified by the Government, by notification in the Official Gazette;]*
>
> ***3. Instrument chargeable with duty***.—*Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefore, respectively, that is to say—*
>
> *(a) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in [India] on or after the first day of July, 1899;*
>
> *(b) every bill of exchange [payable otherwise than on demand], [* * *] or promissory note drawn or made out of [India] on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in [India]; and*
>
> *(c) every instrument (other than a bill of exchange [* * *] or promissory note)*

mentioned in that Schedule, which, not having been previously executed by any person, is executed out of [India] on or after that day, relates to any property situate, or to any matter or thing done or to be done, in [India] and is received in [India]:

Provided that no duty shall be chargeable in respect of—

(1) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894, or under Act, 19 of 1838, or the India Registration of Ships Act, 1841 (57 and 58 Vict., Sections 60, 10 of 1841), as amended by subsequent Acts.

(3) any instrument executed, by, or, on behalf of, or, in favour of, the Developer, or Unit or in connection with the carrying out of purposes of the Special Economic Zone.

xxxx xxxx xxxx

***17. Instruments executed in India**.—All instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution.*

xxxx xxxx xxxx

***27. Facts affecting duty to be set forth in instrument**.—The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.*

4. The Schedule disclosing the rates of stamp duty has been amended by the State of Punjab. Entry no.23 of the Schedule as applicable to the State of Punjab reads as under:-

Entry No.23:-

23	***CONVEYANCE** as defined in Section 2(10) not being a transfer charged or exempted under No.62.*	***Where conveyance amounts to sale of immovable property***	***Other conveyances***
	1	***2***	***3***
	where the value or amount of the consideration for such conveyance as set forth therein does not exceed Rs.50	Two rupees and fifty paise	Two rupees
	Where it exceeds Rs.50, but does not exceed Rs.100	Five rupees	Three rupees
	Where it exceeds Rs.100, but does not exceed Rs.200	Ten rupees	Six rupees
	Where it exceeds Rs.200, but does not exceed Rs.300	Fifteen rupees	Nine rupees
	Where it exceeds Rs.300, but does not exceed Rs.400	Twenty rupees	Twelve rupees
	Where it exceeds Rs.400, but does not exceed Rs.500	Twenty five rupees	Fifteen rupees
	Where it exceeds Rs.500, but does not exceed Rs.600	Thirty rupees	Eighteen rupees
	Where it exceeds Rs.600, but does not exceed Rs.700	Thirty five rupees	Twenty one rupees
	Where it exceeds Rs.700, but does not exceed Rs.800	Forty rupees	Twenty four rupees
	Where it exceeds Rs.800, but does not exceed Rs.900	Forty five rupees	Twenty seven rupees
	Where it exceeds Rs.900, but does not exceed Rs.1000	Fifty rupees	Thirty rupees
	And for every Rs.500 or part thereof in excess of Rs.1000	Twenty five rupees	Fifteen rupees

	Exemption Assignment of copyright under the Copyright Act, 1957, Section 18 Co-Partnership-Deed – See Partnership (No.46)		

5. Section 3 of 'the 1899 Act' provides for levy of the duty on the instrument (conveyance deed) but not on the transaction. However, the court has to look into the nature of the transaction covered by the instrument in order to determine the nature of the instrument. In other words, though the court is required to look into the nature of transaction represented by the instrument, however, the charging Section refers to the instrument but not to the transaction.

6. In the reference order, the attention of the learned Single Judge was drawn to the judgment of the Supreme Court in '**State of Rajasthan vs. Khandaka Jain Jewellers', (2007) 14 SCC 339.** On its careful reading, it is evident that two agreements to sell were executed which were not honoured, forcing filing of two separate suits for the specific performance of the agreement to sell, which were decreed. In this case, the question arose directly about the date when the valuation of the instruments should be assessed. The question was, "whether it should be at the time when the parties entered into the agreement to sell or at the time of registration?" The Supreme Court came to the conclusion that stamp duty on a sale has to be assessed on the market value of the property at the time when the instrument of sale was executed. The valuation as at the time of agreement to sell or at the time of filing of the suit is not relevant.

7. Reference has also been made to the judgment of the Supreme Court in '**M/s Residents Welfare Association, Noida vs. State of UP and others', (2009) 14 SCC 716.** On its careful reading, it is evident that the deeds which were presented for registration were deeds of assignment which were governed by Article 63. The Court further found that Article 63 in clear terms refers to the consideration specified in the instrument. Thus, it was held that stamp duty payable in the case of assignment would not be calculated on the market value of the property but on the consideration set forth in the deed itself. With highest respect, the judgment passed in **M/s Resident Welfare Association's case (supra)** is not applicable to the facts of the present case.

8. Further reference is to the decision rendered by this Court in '**Prabhu Ram vs. State of Haryana and others'** (CWP-3921 of 2010 decided on 29.04.2011) which is a judgment passed by learned Single Judge while following the judgment in **Khandaka Jain Jewellers's case (supra).** Reference has also been made to the judgment of learned Single Bench in '**Harvinder Pal Singla vs. State of Haryana and others'** (CWP no.13233 of 2015 decided of 07.03.2017). In this judgment, reliance is placed on the judgment passed in **M/s Residents' Welfare Association's case (supra)** which, as already noticed above, is not applicable. There is also reference to a Full Bench judgment of the High Court in '**M/s Indo Swiss Time Ltd. vs. Umrao and others' reported in 1981 AIR (P&H) 213,** which is basically answers the question of binding precedents.

9. It is appropriate to note that another Division Bench judgment passed in '**Nripti Bhalla vs. State of Haryana and others' LPA no.4981 of 2018 decided on 11.02.2019** held that the judgment in **M/s Residents' Welfare Association's case (supra)** is distinguishable because the instrument in the aforesaid case was merely assignment of lease property for enjoyment and not for transfer of ownership by sale. In this case, the judgment passed in **Khandaka Jain Jewellers's case (supra)** was noticed. The Court further relied upon another judgment passed by the Supreme Court in '**State of Haryana vs. Manoj Kumar', 2010 (4) SCC 350** wherein the Division Bench judgment of this Court was overruled. In **Manoj Kumar's case (supra),** the Supreme Court found that suit for specific performance of the agreement to sell was filed by the parties to defraud/deprive the Government of its revenue.

10. In '**Shanti Bhushan (dead) through Lrs vs. State of UP and others' 2023 INSC 425,** the Supreme Court again while relying upon the judgment passed in **Khandaka Jain Jewellers's case (supra)** has held that market value specified in the agreement to sell or the market value prevailing on the date of agreement would have no relevance for deciding stamp duty because the relevant market value for the purpose of assessing the stamp duty is the one which prevails on the date of execution of the conveyance in view of Section 3 read with Section 17 of the 1899 Act.

11. Keeping in view the aforesaid discussion, it becomes evident that the judgment passed in **Harvinder Pal Singla 's case**

(supra) is not a good law. In fact, attention of the Bench was not drawn to the judgment passed in **Khandaka Jain Jewellers's case (supra).** The attention of the Bench was also not drawn to the fact that in **M/s Residents' Welfare Association's case (supra),** the Court was not deciding the question of the stamp duty with reference to a conveyance deed.

III **<u>Decision:-</u>**

12. Keeping in view the aforesaid facts and discussion, the question is answered in the following manner:-

> *For the purpose of determining the amount of stamp duty on conveyance deed/ sale deed, the market rate prevailing at the time of execution of sale deed would be relevant and not when the parties entered into agreement to sell.*

13. With these observations, the question placed before the Division Bench is answered accordingly and the file of the case be placed before the Single Judge for further proceedings.

(ANIL KSHETARPAL)
JUDGE

(ROHIT KAPOOR)
JUDGE

14.07.2025
rekha

Whether speaking/reasoned Yes/No
Whether reportable Yes/No