IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.68 of 2015 (O&M)

Date of Decision:-24.04.2015

State of Punjab and another

.....Appellants

Versus

Inderjit Singh Juneja

.....Respondent

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.

Present:- Mr. K.K. Gupta, Addl. AG Punjab.

Mr. Munish Gupta, Advocate
for respondent.

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SATISH KUMAR MITTAL, J.(Oral)

State of Punjab has filed the instant intra-court appeal under Clause-X of the Letters Patent against the order dated 4.4.2014 passed by learned Single Judge, allowing the writ petition vide which the order dated 6.12.2011 passed by the appellant No.2, was set aside and the appellant was directed to refund the amount of Rs.3,36,000/- to the petitioner alongwith interest at the rate of 9% per annum from the date of filing of the petition till the date of payment. Appellant No. 2 rejected the claim of the respondent for refund of the amount of the stamp paper on the ground that under Sections 49 and 50 of the Indian Stamp Act, 1899 the respondent has filed the application for refund after the expiry of the limitation, which according to them was within two months from submitting the stamp paper in the office.

This appeal is barred by limitation. An application for condonation of delay of 254 days has been filed along with this appeal. Reply has been filed to this application by the respondent. No reasonable explanation has been given by the appellant for condoning the delay. Thus, we do not find any sufficient ground for condoning the long delay on the part of the appellant. Even otherwise we have gone through the impugned order passed by learned Single Judge and do not find any infirmity in the same.

In this case the respondent has purchased stamp paper worth Rs.3,36,000/- vide receipt dated 4.2.2011 in order to execute a conveyance deed in his favour by the GMADA with regard to the plot allotted to him. Undisputedly the writing was made on the stamp paper and it was also presented in the office but no conveyance deed was executed. In the meanwhile, Rule 3-B of the Punjab Stamp (Dealing of Under Valued Instruments) Rules, 1983, was amended. The Rule as amended provides that when a plot is allotted by the PUDA or by Public Sector undertaking the Collector's rates fixed under Rules 3-A of such property, shall be taken from the date of allotment of the plot and the conveyance deed could be registered upto 30.9.2011 after making payment of full price. After the said amendment, the petitioner purchased a fresh stamp paper of Rs.94,600/- on 12.8.2011 and handed over the same to the Estate officer, GMADA, Mohali for execution of the conveyance deed and undisputedly on those papers the conveyance deed was executed. After that on 12.9.2011 the respondent applied for refund of the value of the stamp papers previously purchased by him on 4.2.2011. The claim has been declined by SDM, SAS Nagar Mohali, appellant No.2 herein, on the ground that it was delayed by 6 months and 23 days. The said appellant has calculated the said limitation from the date these papers were purchased on 4.2.2011. Learned Single Judge, stated that date of limitation should be taken from the date when on the second set of stamp papers the conveyance deed was executed i.e. on 12.8.2011 and if that date is taken as the starting point of limitation the application was within time.

Learned counsel for respondent pointed out that the case of the respondent for refund falls under Proviso (b) to Section 50 (3) of the Indian Stamp Act, 1899, which reads as under:

> "50(3)(b) When from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument."

On the other hand learned counsel for the appellant states that the case of the respondent is covered by clause (b) of Section 49 which reads as under:

> "49(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto:"

Similar contention was raised by the appellant before the learned Single Judge, which has been rejected. In our opinion, the learned Single Judge, has rightly rejected the contention of the appellant and held that the application filed by the respondent for refund of the amount was within limitation as the case of the appellant clearly falls under proviso (b) of Section 50(3) of the Indian Stamp Act, 1899.

Thus even on merit, we do not find any illegality in the order passed by learned Single Judge.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

24.04.2015
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(HARINDER SINGH SIDHU)
JUDGE