238 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17036-2016 (O&M)
Date of Decision: 15.10.2018.

Pritpal Singh
... Petitioner

Versus

State of Punjab and others
... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. A.S. Saini, Advocate for
Mr. G.S. Saini, Advocate,
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition, the petitioner seeks direction to the respondents to refund the amount deposited by the petitioner at the time of transfer of land in his name by his father.

It has been contended that father of the petitioner had transferred land measuring 66 kanals and 13 ½ marlas in favour of the petitioner vide vasika No. 2203 dated 04.11.2015 registered before Sub-Registrar, Ferozepur. Notification No. S.O. 47/C.A.XVI/1980/Ss.78 and 79/2015 (Annexure P-2) and notification S.O.48/CA2/8.9/2015 dated 02.11.2015 (Annexure P-3) were issued by the Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management (Stamp and Registration Branch), whereby in exercise of powers conferred by proviso to clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (Central Act No.2 of 1899) (for short "the Act") and all other powers enabling in this behalf, the Government of Punjab has remitted the stamp duty levied as Social Security Fund under Schedule 1-B and Social Infrastructure Cess under Schedule 1-C of the Act on the instruments pertaining to the transfer of immovable property by an owner during his life time to his/her spouse or to any one in blood relation, namely, son, daughter, father, mother, brother, sister, grandson and grand-daughter.

It has been further contended that the petitioner has paid a total sum of Rs.1,28,000/- at the time of registration of transfer-deed, out of which Rs.64,000/- were paid as stamp duty on 03.11.2015 and further Rs.64,000/- were paid at the time of entry of Vasika. The aforesaid amount of Rs.1,28,000/- has been received by the respondents illegally because vide notification No. S.O.48/CA2/8.9./2015 dated 02.11.2015 issued by the Government of Punjab, the stamp duty has been remitted prior to the transfer in question.

On the other hand, it is has been contended by the learned State counsel that at the time of registration of transfer-deed, notification dated 02.11.2015 (Annexure P-2) had not been received by the office of respondent No.3 and the same was received on 08.11.2015 whereas, the transfer deed was executed on 02.11.2015. The petitioner is not covered under the said notification as the deed had been executed on 02.11.2015 whereas, the notification was given effect with effect from

04.11.2015.

Heard.

It is to be noticed that the transfer-deed in question was executed on 03.11.2015 whereas, the notification in question was issued on 02.11.2015, therefore, the same will be applicable on the transfer-deed with full force. The petitioner is entitled to the benefit conferred by the notifications (Annexure P-2 & P-3). The notifications exempt the stamp duty levied as social security fund under Schedule 1-B and Social Infrastructure Cess under Schedule 1-C of the Indian Stamp Act.

Consequently, the present civil writ petition is allowed. The respondents are directed to refund the amount deposited by the petitioner at the time of execution of transfer-deed dated 03.11.2015 (Annexure P-4), within a period of two months from the date of receipt of certified copy of the order.

15.10.2018. **(JITENDRA CHAUHAN)**
SN **JUDGE**

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