

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

CWP-25813-2017 (O&M)
Date of decision : 23.10.2018

Parmjit Kumar and others

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ranjit Singh Sidhu, Advocate,
for Mr. Gopal Singh Nahel, Advocate,
for the petitioner(s).

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

By way of the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners, *inter alia* seek quashing of impugned order dated 31.08.2017 (Annexure P-7) passed by respondent No.2, thereby refusing to refund the stamp duty and registration fee to the petitioner though exempted vide Notification dated 24.06.2008 (Annexure P-2 and P-3).

Learned counsel contends that the case of the petitioner is squarely covered by the ratio of law laid down by this Court in CWP No.2070 of 2016, titled as '***Gurdeep Singh and others Vs. State of Punjab and others***', decided on 17.10.2016 (Annexure P-8).

Learned State counsel does not dispute the assertion so raised by learned counsel for the petitioners.

Heard.

In Gurdeep Singh's case (supra), it has been laid down as under:-

“The facts are not much in dispute but in order to appreciate the rival contentions, it would be relevant to refer to both the notifications dated 24.06.2008. For the ready reference, the text of both the notifications dated 24.06.2008 is reproduced as under:-

"No.S.O.42/C.A. 2/1899/S. 9/2008.- In exercise of the powers conferred by clause (a) of sub-section (1) of [Section 9](#) of the Indian Stamp Act, 1899 ([Central Act No.2 of 1899](#)), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to remit the duty chargeable under the aforesaid Act on the instruments of conveyance that may be executed or have already been executed for the purchase of land in the State of Punjab by the owner whose land has been acquired for the public purpose. The remission shall be limited to the amount which the owner of the land has received as compensation awarded by the Collector for the acquisition of his land."

"No.S.O. 43/C.A. 16/1908/Ss. 78 and 79/Amd./2008.- In exercise of the powers conferred by [Section 78](#) and [79](#) of the Registration Act, 1908 ([Central Act No.16 of 1908](#)), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following amendment in the Government of Punjab, Department of

Revenue and Rehabilitation (Registration), Notification No.S.O.25/C.A. 16/1908/Ss. 78 and 79/80/6056, dated the 15th April, 1980, namely:-

AMENDMENT

In the said Notification, under the heading "Table of Registration Fees", after the last existing proviso to [Article-I](#), the following proviso shall be added, namely:-

"Provided further that no registration fee shall be chargeable on the instruments of conveyance that may be executed or have already been executed for the purchase of land in the State of Punjab by the owner whose land has been acquired for the public purpose. The remission shall be limited to the amount which the owner of the land has received as compensation awarded by the Collector for the acquisition of his land."

It would also be relevant to refer to [Section 52](#) of the Act, which reads as under:-

"52. Allowance for misused stamps.- (a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used

any stamp for an instrument not chargeable with any duty; or

(b) When any stamp used for an instrument has been inadvertently rendered useless under [section 15](#), owing to such instrument having been written in contravention of the provisions of [section 13](#); the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless."

The first notification dated 24.06.2008 was issued in terms of [Section 9\(1\)\(a\)](#) of the Act with a view to remit the duty chargeable under the Act on the instruments of conveyance that may be executed or have already been executed for the purchase of land in the State of Punjab by the owner whose land has been acquired for the public purpose but the said concession has been made limited to the amount which the owner of the land has received as compensation awarded by the Collector for acquisition of his land, meaning thereby if the owner of the land re-invests the money received on account of compensation of his land, then there would be no stamp duty chargeable but if the money invested is more than the money received from acquisition of his land, then the situation would be different. The amended notification deals with the registration fee which is

in the same language as that of the remission of stamp duty. Further, Section 52 of the Act specifically provides for the allowance for spoiled or misused stamps, meaning thereby if the stamp duty has been affixed on an instrument inadvertently, which is not chargeable with duty, then allowance can be made.

The stand taken by the respondents is without any basis wherein it is stated that the certificates were issued to the petitioners after the date of sale deed but the fact remains that the petitioners have invested the amount of compensation, which has been received by them on the acquisition of their land and are fully covered by the notifications dated 24.06.2008.

Thus, in view of the aforesaid discussion, the present writ petition is hereby allowed, impugned order dated 18.09.2015 is hereby set aside and direction is issued to the respondents to refund the stamp duty and registration fee to the petitioners within a period of three months from the date of receipt of certified copy of this order.”

In view of the stand taken by the parties that the matter in hand is squarely covered by the judgment rendered by this Court in Gurdeep Singh's case (supra), the instant writ petition is allowed in the same terms.

23.10.2018

(JITENDRA CHAUHAN)

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JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No