IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9326 of 2022

Mr.Darshan Singh Basra ... Petitioner

Vs.

1.The District Collector,
Chennai District,
Collectorate Office, Rajaji Salai, Chennai.

2.The District Registrar,
Administration,
District of North Chennai,
Kuralagam Building, Broadway,
Chennai – 600 103. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in respect of this order No.2280/A7/2022 dated 17.03.2022 issued by the 2nd respondent and quash the same and direct the Respondents to refund the e-stamp duty of Rs.9,90,000/- (Rupees Nine Lakhs Ninety Thousand only) without any deduction.

For Petitioner : Mr.S.Ravichandran

For Respondents : Mr.C.Jayaprakash,
Government Advocate

O R D E R

The order impugned dated 17.03.2022 passed by the 2nd respondent / the District Registrar is under challenge in the present writ petition.

2. The petitioner states that he had purchased a property at Orchids Apartment No.54, Canal Road, Korattur, Chennai – 600 076 for a sale consideration of Rs.90,00,000/-. The stamp duty required for registration of the said property is 7% on stamp duty and 4% on registration charges. The petitioner made e-stamp transfer, RTGS to stock holding limited the agent of issuing e-stamp on behalf of the 1st respondent for an amount of Rs.9,90,400/-.

3. The petitioner had separately paid the registration charges and he was unable to register the Sale Deed before the Sub-Registrar on 27.02.2022. Therefore, the petitioner approached the 2nd respondent for cancellation of e-stamp and refund of the money, since the e-stamp was not used by the petitioner for registration. Thereafter, the petitioner submitted an application before the 2nd respondent / the District Registrar, who in turn considered the

application and by deducting 10% of the e-stamp value, had refunded the balance amount of Rs.8,91,360/- to the writ petitioner.

4. The learned counsel for the petitioner states that petitioner has not availed the Sale Deed and subsequently, registered the Sale Deed by separately paying the same. That being the factum, the e-stamp value in full has to be refunded to the writ petitioner.

5. Section 54 of the Indian Stamps Act, 1899 speaks about '***the allowance for stamps not required for use***', which reads as under:-

> *" When any person possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting [ten naye paise] for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction -*
>
> *a) then such stamps or stamps were purchased by such person with a bona fide intention to use them; and*

b) that he has paid the full price thereof; and

c) that they were so purchased within the period of six months next preceding the date on which they were so delivered;

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid."

6. Therefore, the petitioner cannot claim full value of the e-stamp merely based on the ground that the Department had not provided any service to the writ petitioner. It is a statutory requirement contemplated and therefore, the authorities have not committed any fault in refunding the value of the e-stamp papers by deducting 10% as per the Rules in force.

7. In view of the facts and circumstances, the refund made to the writ petitioner is in consonance with the provisions of the Act and there is no infirmity as such.

With these observations, the writ petition stands dismissed. No costs.

13.07.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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