

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 26039 of 2018 (O&M)
Date of Decision:06.02.2023

Prem Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Chynika Gautam, Advocate, for
Mr. Harsh Aggarwal, Advocate,
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

JAISHREE THAKUR, J.

1. The petitioner herein has approached this Court under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for setting aside order dated 25.9.2017 (Annexure P-3) as passed by the Sub Divisional Officer, Gohana, whereby the claim of the petitioner for refund of the court fee stamp has been declined with a further prayer for issuance of a writ of Mandamus directing the respondents to refund the court fee.

2. In brief, the facts are that the petitioner, who is a widow, sold different parcels of land to purchasers, namely, Samundar and Padam. However, as there was a fraud played upon her, she sought to file a civil suit to have the sale deeds set aside and purchased court fee stamp in order to do so. However, before she could file the civil suit, she suffered a heart attack in 2015 itself and she remained admitted in G.B. Pant Hospital, New

Delhi, where a stent was inserted in her heart. Later on, a settlement arrived at between the petitioner and the two purchasers, consequent to which the petitioner dropped the idea of filing the civil suit. The petitioner also misplaced the court fee stamp, which was later traced out on 01.07.2017. On recovery of the court fee stamp, the petitioner moved an application before the District Magistrate, Gohana, for refund of the same stating that the court fee stamp had not been utilized. The said application filed for refund of the court fee stamp came up for hearing before Sub Divisional Officer (Civil), Gohana, who rejected the same. The petitioner thereafter filed a complaint dated 18.1.2018 to the CM Grievance Redressal and Monitoring System, Haryana. However, the same was not redressed. As the authorities concerned have not refunded the court fee stamp, the instant writ petition has been filed.

3. Learned counsel for the petitioner would challenge the action of the respondents in refusing to refund the court fee by relying upon the provisions of Section 54 of the Indian Stamp Act, 1899 which allows the stamp not used to be refunded. It is contended that even under Section 16 of the Court Fee Act, there is a provision for the Court to refund the amount in case there is settlement arrived at between the parties. It is argued that court fee stamps were purchased for cancellation of the sale deed, which had been got executed fraudulently. However, as the matter was settled, the civil suit was not filed. It is argued that the petitioner had lost the court fee stamp and when she found the same, an application was filed for refund of the court fee, which has illegally been denied.

4. Per contra, learned counsel for the respondents would raise an

argument that the court fee could only be refunded in case an application is duly filed within a period of six months and that there is no provision for extending the said period. In support of his contention, learned counsel would rely on Section 54 (c) of the Indian Stamp act, 1899.

5. I have heard learned counsel for the parties and find the writ petition devoid of merit.

6. The petitioner herein had purchased court fee stamps, amounting to ₹2,13,600/- on 16.9.2015 from the office of Assistant Treasury Officer, Gohana, and the petitioner submitted an application for refund the amount of court fee stamps on 6.7.2017 before the District Collector, after lapse of 2 years and 11 months. Therefore, the application submitted by the petitioner was rightly dismissed being time barred, in view of Section 54 (c) of the Indian Stamp Act, 1899, which reads as under:-

“54. Allowance for stamps not required for use.

When any person is 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) that 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.”

7. The argument raised by the learned counsel for the petitioner that Section 16 of the Court Fee Act permits refund of the court fee. However, the said argument is too devoid of any merit. Section 16 of the Court Fee Act reads as under:-

“16. Refund of fee—Where the Court refers the parties to the suit to any one of the mode of settlement of dispute referred to in Section 89 of the Code of Civil Procedure, 1908 (5 of 1908), the plaintiff shall be entitled to a certificate from the Court authorizing him to receive back from the Collector, the full amount of the fee paid in respect of such plaint.”

A reading of the said Section would establish that the court fee can be refunded when the court refers the parties to a suit to any of the mode of settlement and if a settlement is arrived at, in such situation, the court shall authorize refund of the court fee to the plaintiff. In the instant case, the applicability of the said section would not arise, considering the fact that the suit was never filed nor was a settlement arrived at between the parties pursuant to a court referring the matter to be settled. There is no occasion for the applicability of Section 16 of the Court Fee Act.

8. Consequently, it is held that there is no infirmity in the impugned order passed by the Sub Divisional Officer, Gohana, declining to refund the court fee stamp being beyond the period of six months. Dismissed.

06.02.2023

(JAISHREE THAKUR)
JUDGE

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Whether speaking/reasoned : Yes

Whether Reportable : No