IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.17882 of 2024

S.Janakiraman .. Petitioner

Versus

1. The District Registrar (Admin)
O/O. The District Collector
Royapettah, Chennai – 600 014

2.The Collector
O/o.The Collector, Chennai
No.62, Rajaji Salai,
Fourth Floor, Chennai – 600 001

3.The Inspector General of Registration
No.100, Santhom High Road
Mullima Nagar, Mandavelipakkam
Raja Annamalaipuram, Chennai – 600 028 .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order date 08.11.2023 in Ref.No.9385/AA4/2023 and to quash the same as illegal by directing the first and 2nd respondents to refund a sum of Rs.1,06,500/- (Rupees One Lakhs Six Thousand and Five Hundred Only) payable under the unused stamp papers namely (i) Stamp paper No. B576725 dated 27.12.2022 – Rs.20,000/- (ii) Stamp Paper No. B825884 dated 27.12.2022 – RS.15,000/- (iii) Stamp Paper No. X746740-746773 (5000 X 14) dated 27.12.2022 – Rs.70,000/- (iv) Stamp Paper No. BB35638 dated 27.12.2022 -Rs 1000/- (v) Stamp Paper No. AM832171 Dated 27.12.2022 - Rs.500/- total Rs.71,500/- to the petitioner.

For Petitioner : Mr.R.Thrishuli

For Respondents : Mr.B.Vijay for R1 and R3
Additional Government Pleader
Mr.G.Ameedius for R2
Government Advocate

ORDER

By consent of both parties, this writ petition is taken up for final disposal.

2. It is the case of the writ petitioner that the petitioner and Chellamal had entered into an agreement for sale. For that purchase, he has purchased the Non Judicial Stamp papers for a sum of Rs.1,06,500/-. However, after agreement, the sale transaction did not go through immediately and a dispute arose between the parties for fixing of sale rice and consequently, the sale transaction was postponed and the petitioner waited for some time for the purchase of the property. Thereafter, the sale was cancelled and therefore, he requested the authorities to refund the stamp, this application has been rejected as time barred by order dated 08.11.2023 in Ref.No.9385/AA4/2023. Challenging the same, this writ petition.

3. Mr.R.Thrishuli, the learned counsel for the petitioner submitted that in a similar situation, this Court in W.P.No.11124 of 2020 has directed the

respondent to refund the same.

4. Heard both sides and perused the materials placed on record.

5. The impugned order, on perusal, would indicate that the application of the petitioner is rejected since the application is given after a period of 6 months. The petitioner is not entitled to refund.

6. It is relevant to note that Section 50 of the Indian Stamp Act reads as follows:

"50. Application for relief under section 49 when to be made.— The application for relief under section 49 shall be made within the following periods, that is to say, —
(1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument;
(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;
(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, 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:
Provided that, —
(a) when the spoiled instrument has been for sufficient reasons sent out of India, the application may be made within six months after it has been received back in India;
(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.

7. The above provision makes it clear that refund has to be claimed within a period of six months after the date of instrument or it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed. The very document itself clearly shows that date of agreement has been erased, whereas, date in the paper indicate that the stamp paper has been purchased during the last week of December 2022. Such case, the application for refund was filed only on 01.08.2023 beyond the period of 6 months. Therefore, when the petitioner has not sought for refund within a period of 6 months as mandated under law, as a matter of right, he cannot seek a relief for refund. The judgment cited by the learned counsel for the petitioner cannot be applied for the present case for the simple reason that in the above case, this Court taking note of the fact that the delay was not attributable to the writ petitioner therein and beyond the control of the parties, the delay occurred due to change in rule. Therefore, the same has not been used in time. Taking note of the peculiarity of the situation of the writ petitioner therein, the writ petition was ordered, that is not the case here.

8. Hence, I do not find any infirmity in the impugned order and

accordingly, this writ petition stands dismissed. No costs.

18.07.2024

dhk
Index :Yes/No
Internet :Yes/No
Neutral Citation : Yes/No

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N. SATHISH KUMAR, J.

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