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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33259-2024

Date of decision:-10.12.2024

Madhu Gora

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr. S.S. Khurana, Advocate
for the petitioner.

SUVIR SEHGAL, J.(ORAL)

1. Petitioner has approached this Court under Article 226/227 of the Constitution of India, *inter alia*, for issuance of a writ in the nature of certiorari for setting aside of letter dated 06.11.2024, Annexure P4, received from respondent No.2 whereby petitioner's application for refund of excess amount of stamp duty has been rejected.

2. Counsel for the petitioner submits that petitioner was declared to be highest bidder for an apartment in an auction held on 28.12.2023 by the PNB Housing Finance Ltd. under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. He states that petitioner paid the entire consideration of Rs.27,22,000/- and a sale certificate was issued, which was registered on 20.03.2024, Annexure P2. Counsel asserts that due to inadvertence, petitioner affixed stamp duty of Rs.3,04,500/-, which was purchased by



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her in January, 2024, instead of the requisite stamp duty of Rs.1,36,100/-. He submits that the petitioner gave an application dated 15.04.2024, Annexure P3, to respondent No.2 for refund of the excess amount, which was been declined vide letter under challenge herein on the ground that there is no provision for refund.

3. Issue notice of motion to the contesting respondents No.1 and 2.

4. On asking of Court, Mr. Aman Bahri, Addl.A.G., Haryana, accepts notice on behalf of respondents No.1 and 2. In all fairness, Mr. Bahri could not dispute that Sections 49 and 50 of the Indian Stamp Act, 1899 provide for refund of excess stamp duty.

5. Having heard counsel for the parties, this Court is of the view that the impugned communication has sent without appreciating the statutory provisions. This Court, therefore, has no option but to set aside the impugned communication, Annexure P4, and the matter is remitted to respondent No.2 to decide the application, Annexure P3, afresh after referring to the statutory provisions.

6. Needful exercise be done within a period of four months from the date of receiving of a copy of this order.

7. Petition is disposed off.

(SUVIR SEHGAL)
JUDGE

10.12.2024
Brij

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