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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 15794/2023**

RAJENDER KUMAR

..... Petitioner

Through: Mr. Rohan Malik, Advocate.

versus

GOVERNMENT OF NCT DELHI & ORS.

..... Respondents

Through: Mr. Prashant Manchanda, ASC with
Ms. Nancy and Ms. Haridas Medha
Dilip, Advocates for GNCTD.
Ms. Shubham Mahajan, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

08.05.2024

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1. The Petitioner has approached this Court for unlocking Court fee of sum of Rs.28,780/- which is lying with the Registry.
2. The facts of the case reveals that the Petitioner filed a Second Appeal against an Order passed by the learned Single Judge of this Court rejecting Regular First Appeal No.322/2017. It is stated that after the Second appeal was filed with the court fee, the second appeal was returned by the Registry stating that it was not maintainable.
3. The Petitioner has, thereafter, approached this Court for return of the Court fee.
4. Learned Counsel for the Petitioner places reliance on the Judgment dated 02.12.2020, passed by a Coordinate Bench of this Court in **W.P.(C)**



8221/2020, titled as Krishan Kumar v. The Sub Divisional Magistrate Rohini & Anr. Relevant portion of the said Judgment reads as under:

“6. In Aya Singh Tirlok Singh vs. Munshi Ram Amta Ram, MANU/DE/0014/1968, this Court while considering the issue of refund of the excess court fee on the Memorandum of Appeal, held that unless the liability to pay court fees is clearly supportable on the plain statutory language, a suitor is not liable to pay any court fees; the Court has inherent power to direct refund of excess court fee paid either under compulsion or under a bona fide but erroneous impression, if the cause of justice so demands.

8. In the present case, the event of charge of collecting court fee has not occurred as the petitioner claims that he did not file the Suit for the purposes of which the e-stamp paper was purchased. Therefore, there was no authority with the State to retain the amount once the petitioner wishes to return the same without it being utilized or spoiled in any manner. Infact, for utilization of the stamp, as noted in Section 30 of the Act, the same has to be cancelled. In such cases, insistence of the respondent on Court order would also be completely unnecessary. It will lead to unnecessary litigation and pressure on court. The policy of the State has to be to avoid and not encourage the same. The respondent must refund this amount on being satisfied of its non-use.

9. In view of the above, it is directed that the respondent, on being satisfied that the e-stamp paper purchased by the petitioner has remained unutilized, shall refund the amount of Rs.7,45,000/- to the petitioner within a period of four weeks from today.



10. It is noticed that in many other cases, request for refund of court fee wrongly purchased or remaining unutilized, is being denied by the respondent advising the party to obtain court order allowing such refund. It is therefore, directed that in such other cases as well, on being satisfied that the court fee has remained unutilized/ unspoiled, the respondent must refund the court fee without insisting on any further court order in this regard.”

5. In view of the above decision, this Court is inclined to allow the present Writ Petition on the ground that the second appeal was filed by the Petitioner on an erroneous impression that the said appeal is maintainable. Let the Court fee be unlocked and be refunded to the Petitioner in accordance with law.

6. Accordingly, the Writ Petition is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

MAY 8, 2024

Rahul