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

\+ W.P.(C) 14869/2024, CM APPL. 62420/2024

MULAKH RAJ DUA .....Petitioner

Through: Mr. B.S. Chauhan, Advocate.

versus

THE STATE, GOVT. OF N.C.T. OF DELHI & ANR. ....Respondents

Through: Mr. Udit Malik, ASC with Mr. Vishal Chanda, Advocate for GNCTD.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **23.10.2024**

1. Through the present writ petition, the Petitioner seeks *inter-alia* directions to be issued to the Respondents to release 10 percent of the e-stamp paper amount of INR 23,58,000/- along with interest on the same.

2. The facts leading up to filing of the present petition are as follows:

2.1. Pursuant to an auction of Bank of Baroda, the Petitioner purchased industrial land and building situated at situated at Plot No. 458-466, New Municipal No. 537/2, out of Khasra No. 372/39 to 51/2, Gali No. 8, Friends Colony, Industrial Shahdara, Delhi-110095. In this regard, on 9th January, 2019, the Petitioner purchased the Stamp Duty of INR 23,58,000/- for execution of sale deed/documents and also paid the registration fee of INR 3,93,136/- to the office of the concerned Sub-Registrar, Delhi.

2.2. Thereafter, when the Petitioner contacted the officials of Bank of Baroda for execution of the sale deed, he was informed that the sale deed with respect to the property bearing no. 537/2, Industrial Area, Village Jhilmil Colony, Delhi cannot be executed in light of a stay order of the Debt Recovery Tribunal, Delhi[1] in S.A. No. 344/2018. Through the said order the DRT restrained the bank from transferring/alienating/creating any third-party interest in the said property, thereby directing the Bank not to register the sale deed in favour of the auction purchaser, i.e., the Petitioner herein.

2.3. In light of such a direction, the Petitioner filed an impleadment application before the DRT in the S.A. No. 344/2018, which was subsequently allowed and vide the order dated 1st April 2022, the DRT directed the Bank to return the auction amount deposited by the Petitioner with interest @ 10% from the date of receiving the auction amount.

2.4. Thereafter, the Petitioner filed an appeal against the said order before the DRT, however, the same was withdrawn on 13th March, 2022, with liberty to approach the concerned collector for refund of the stamp duty and registration charges.

2.5. Accordingly, in March, 2023, the Petitioner approached Respondent No. 2 – Collector of Stamps, for refund of the stamp duty vide application dated 23rd March, 2023. Similarly, the Petitioner also approached the Sub-Divisional Magistrate, Delhi[2], for refund of the e-registration fees, which was approved by the SDM and a Refund Voucher was issued to the Pay and Accounts Officer[3], Tis Hazari, Delhi for release/credit of the e-registration charges to the account of the Petitioner. However, aggrieved by the non-refund of the stamp duty delay in release of the e-registration fees, the Petitioner filed a writ petition being W.P.(C) 4589/2024 before this Court

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[1] "DRT"
[2] "SDM"

seeking directions to the authorities to complete the refund in question. The said writ petition was disposed of by this Court vide order dated 7th May, 2024, directing the Collector to decide the application of the Petitioner in light of the judgement of ***Citius Real Estate v. Union of India***[4].

2.6. In light of the aforementioned decision, on 10th June, 2024, the Respondents refunded INR 21,22,000/- towards e-stamp duty and INR 3,93,100/- towards the e-registration fees to the Petitioner.

3. In view of the abovementioned facts and in light of the refunds already made by the Respondents, it is noted that even though the Petitioner's grievance as to the refund of e-registration fees stands redressed, the Petitioner remains aggrieved by the deduction of 10% of the e-stamp amount.

4. Mr. B.S. Chauhan, counsel for the Petitioner argues that the said deduction is unlawful and arbitrary and therefore the Respondents should be directed to release 10% of the e-stamp amount of INR 23,58,000/- amounting to INR Rs. 2,35,800/- along with interest @ 6% per annum.

5. On the other hand, counsel for the Respondents have pointed out this deduction in compliance of the statutory provision of Section 53(c) of the Indian Stamp Act, 1899[5], which allows the Collector to exercise discretion in case there is allowance for spoiled and misused stamps and accordingly make a deduction of 10 paisa per each rupee i.e. 10 percent of the amount. Therefore, it is urged by counsel for the Respondents that their action of deducting the said 10% of the e-stamp duty amount was in exercise of such a discretionary power of the Collector.

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[3] "PAO"

[4] 2023 SCC OnLine Del 7514

6. In view of the above, in the opinion of the Court, the deduction of 10%, made by the Respondent is in consonance with the statutory provisions and therefore the Petitioner has not been entitled to refund of the deducted amount of the stamp duty. Accordingly, the argument of the Petitioner for interest to be granted @ 6% per annum, also does not survive.

7. Accordingly, the writ petition is dismissed along with pending application.

SANJEEV NARULA, J

OCTOBER 23, 2024
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[5] "Stamp Act"