

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4743 OF 2021

Vijay Raosaheb Mundhe

VERSUS

The State Of Maharashtra And Others

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Advocate for the Petitioner : Mr. D.K. Dagadkhair

AGP for Respondent/State : Mr. D.R. Korade

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JULY 21, 2025

PER COURT :-

1. The petitioner impugns order dated 23.09.2020 passed by Chief Controller, Revenue Authority/respondent no.3 in Appeal No.289 of 2017 thereby confirming order dated 17.07.2017 passed by Collector of Stamp of Aurangabad in File No.59 of 2011, by which prayer of petitioner for refund of amount of Rs.72,800/- along with interest has been declined.

2. The facts giving rise to present petition can be summarized as under :

Petitioner nos.2 and 3 wanted to purchase a plot at Aurangabad. Petitioner no.1 acted as Mediator. He is also close relative of petitioner nos.2 and 3. On 22.02.2011, petitioner no.1 purchased E-stamp Certificate No. IN-MH01971623966969J for purpose of sale deed to be executed. However, while making purchase of stamp, name of petitioner no.2 is wrongly mentioned as

Rahul Badrinath Khedkar instead of Umesh Badrinath Khedkar. On 28.02.2011 since sale deed was to be executed, petitioner nos.2 and 3 were compelled to purchase the fresh stamp on correct name of Umesh Badrinath Khedkar. On 07.03.2011, petitioners filed application to respondent no.2 seeking refund of e-stamp certificate amount of Rs.72,800/- as same stamp was not used due to clerical inadvertent mistake in first name of petitioner no.2. However, vide order dated 17.07.2017, respondent no.2 rejected claim of petitioners on the ground that e-stamp was not purchased by petitioner no.2 and it was purchased by one Rahul Badrinath Khedkar. The petitioners preferred appeal before respondent no.3 against order of Collector. However, said appeal came to be rejected.

3. Mr. Dagadkhair, learned advocate appearing for petitioners submits that it was inadvertent error to put name as Rahul Badrinath Khedkar instead of Umesh Badrinath Khedkar at the time of purchase of stamp. He submits that person in the name of Rahul does not exist. It was advertence of petitioner no.1 to put name of Umesh Badrinath Khedkar as Rahul Badrinath Khedkar. Due to incorrect name on e-stamp, stamp paper cannot be utilized and amount of Rs.72,800/- has been withheld by respondents. Section 52 of Maharashtra Stamp Act, 1958 reads thus :

52. 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 [therefrom such amount as may be prescribed by rules made in this behalf by the State Government], upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction -

(a) that such stamp 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.

4. Apparently, the aforesaid provision enables refund of amount of stamp on application of purchaser. In present case, stamp has been purchased in the name of Rahul Badrinath Khedkar. The petitioners have filed affidavit before this Court stating that the person with name Rahul Badrinath Khedkar does not exist and petitioner no.1 has purchased the stamp for petitioner nos.2 and 3 particularly in the name of petitioner no.2 - Umesh Badrinath Khedkar. However, inadvertently instead of name of Umesh, the first name is wrongly mentioned as Rahul. The petition is supported by affidavits of Umesh Badrinath Khedkar and Badrinath Genajirao Khedkar for whose benefit the stamp was purchased.

5. Considering aforesaid factual aspects, impugned orders would not sustain and liable to be quashed and set aside. In result, writ petition is allowed in terms of prayer clause (B) and (C). However, the petitioners shall be entitled for interest only if it is permissible under relevant rules.

(S.G. CHAPALGAONKAR, J.)