IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21005 of 2025

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Prabhu Prasad Sureka Son of Late Chiranjeev Lal Sureka, Resident of Village- Bhagwanpur Chak Seku, Ward No. 7, Post Office and Police Station- Dalsinghsarai, District- Samastipur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Prohibition, Excise and Registration Department, Vikas Bhawan, New Secretariat, Nehru Path, Patna- 800015.
2. The Additional Chief Secretary, Prohibition, Excise and Registration Department, Vikas Bhawan, New Secretariat, Nehru Path, Patna- 800015.
3. The Inspector General (Registration) Prohibition, Excise and Registration Department, Vikas Bhawan, New secretariat, Nehru Path, Patna- 800015.
4. The Deputy Inspector General (Registration) Prohibition, Excise and Registration Department, Vikas Bhawan, new Secretariat, Nehru Path, Patna- 800015.
5. The Collector-cum-Registrar, Begusarai.
6. The District Sub Registrar, Registration Officer, Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Adv.
		Ms. Shristi Singh, Adv.
For the Respondent/s	:	Mr. Venkatesh Kirti, JC to GA2

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

5 23-07-2026 Heard learned counsel for the parties.

2. This instant writ application has been filed for the following relief:-

"1. i. For issuance of an appropriate writ, order or direction commanding the respondents to refund the amount of stamp duty and registration charges to the tune of Rs. 13,78,610/- (Rupees Thirteen Lakh Seventy-Eight Thousand Six Hundred Ten only), which had been deposited by the petitioner in connection with execution of the sale deed, which was not registered and consequently, the petitioner filed an application for cancellation of e-stamp under Form-7 in terms of Rule 37 of the Bihar Stamp Rules in prescribed format has not been refunded till date which action of the respondent is arbitrary, illegal and unsustainable. The respondents may further be directed to refund the aforesaid amount along with interest at the rate of 12% per annum from the date of deposit till the date of actual payment.

ii. For issuance of an appropriate writ, order or direction commanding the respondents to consider and dispose of the petitioner's representation dated 09.09.2025 seeking refund of the stamp duty and registration fees, as the Sub-Registrar had refused to register the sale deed despite its due execution and signatures by the executant.

iii. For any other relief reliefs to which the petitioner is found entitled in the facts and circumstances of the case.

<u>Added prayer in compliace to the order dated 09.07.2026</u>

(i) For issuance of an appropriate writ, order, or direction in the nature of Certiorari for quashing the order dated 15.04.2026 passed in Miscellaneous. Case No. 23 of 2026 by the Collector, Begusarai, whereby the application filed by the petitioner seeking refund of stamp duty and registration fee amounting to Rs.13,78,650/- along with interest has been rejected, which order is illegal, arbitrary,

and unsustainable in the eyes of law.

(ii) For issuance of an appropriate writ, order or direction in the nature of mandamus, that upon 2026 quashing the order dated 15.04.2016 passed in Miscellaneous. Case No. 23 of 2026 by the Collector, Begusarai, the respondent authority may be directed to refund the stamp duty and registration fee amounting to Rs. 13,78,650/-along with interest forthwith."

3. The factual matrix of the case is that the petitioner's son, Sanjay Surekha, had advanced a friendly loan of Rs. 2,47,70,000/- in tranches between 2005-2012 to Sanjiv Kumar Agrawal, of which Rs. 37,00,000/- was repaid, leaving Rs. 2,10,70,000/- outstanding. After his son's death on 21.04.2014, the petitioner pursued recovery, and it was agreed that Sanjiv Kumar Agrawal's land at village Pachambha be sold in adjustment of the dues, with the balance Rs. 8,24,000/- payable after verification. A sale deed was executed on 11.05.2022 (Annexure P/1), and the petitioner deposited Rs. 3,44,640/- as registration fee and Rs. 10,32,920/- as stamp duty, totalling Rs. 13,78,610/-, vide challan dated 11.05.2022 (Annexure P/2). However, Sanjiv Kumar Agrawal failed to appear for endorsement before the Sub-Registrar, denying registration. The petitioner filed Title Suit No. 193 of 2022 on 06.07.2022 for specific performance, impleading the Sub-Registrar and

Registrar, Begusarai, who in their written statement dated 15.12.2022 (Annexure P/3) admitted registration could not proceed due to a status quo order in C.W.J.C. No. 349 of 2020. On 09.09.2025, the petitioner sought refund of the Rs. 13,78,610/- under the prescribed rules of the Bihar Stamp Rules (Annexure P/4), which went unprocessed, prompting the present writ petition at the age of 88 years his age and lack of source of income.

4. Learned counsel for the petitioner submits that despite the subsisting status quo order, Sanjiv Kumar Agrawal executed four fresh sale deeds Nos. 1094, 1095,1096 and 1097 on 05.02.2024 for the same land in favour of third parties, registered with the connivance of the Sub-Registrar who is Respondent No.6 (Annexure P/5 series). The petitioner's refund representation was thereafter rejected vide Letter No. 42 dated 02.01.2026 by the Collector-cum-Registrar, Begusarai, solely on the ground of limitation period of one year from the date of issuance of E-Stamp in terms of the Bihar E-Stamp Duty (Implementation by Agency) Rules, 2020. It is also crucial to note that the petitioner had been diagnosed with pancreatic cancer and undergone surgery at Medanta, The Medicity, Gurugram (pathological report at Annexure P/6), which were

also essential for consideration of the claim of refund but, the same having been rejected vide impugned orders without application of mind.

5. It is further submitted that pursuant to the Court's directions on 24.03.2026, the petitioner filed a representation dated 30.03.2026 (Annexure P/7) and appeared for personal hearing before the Collector, explaining the delay on account of his age, illness (diagnosed with pancreatic cancer in Patna in August 2025), and his earlier unattended application dated 06.06.2022 for summons against the vendor. It also alleged that the subject plots, though locked on the registration portal due to the status quo order, were arbitrarily unlocked to enable execution and registration of the four sale deeds on 05.02.2024 within a span of 30 minutes. The Collector, by order dated 15.04.2026 in Miscellaneous Case No. 23 of 2026 (Annexure P/8), rejected the refund application on the erroneous ground of possible future utilization of the stamp duty, contrary to Section 54 of the Indian Stamp Act, 1899, which makes it clear that a stamp has a limited validity of six months and cannot be used thereafter for any purpose, and without considering the delay-condonation explanation.

6. Learned Counsel for the respondents submits that the

petitioner's claim for refund of Rs. 13,78,610/- deposited towards stamp duty and registration fee is squarely governed by Clause 28(2) of the Bihar E-Stamp Duty (Implementation by Agency) Rules, 2020, read with Notification No. 10/मु0 SHCIL-120/2017-71 dated 08.01.2021, which mandates that an application for refund of a spoiled, misused, or unrequired e-Stamp Certificate must be filed in Form-6 before the Collector within one year from the date of purchase of the e-Stamp, failing which no refund is admissible. Admittedly, the petitioner purchased the e-Stamp on 11.05.2022 but filed his refund application only on 09.09.2025, i.e., after a delay of over three years, far beyond the statutorily prescribed period. The application being ex facie time-barred, the Collector, Begusarai, rightly rejected the same vide order dated 01.01.2026, communicated to the petitioner vide Letter No. 42 dated 02.01.2026, and no illegality or arbitrariness can be attributed to the said rejection, which is strictly in conformity with the statutory scheme.

7. It is further submitted that in compliance with the order dated 24.03.2026 passed by this Hon'ble Court directing the petitioner to appear before the District Magistrate, Begusarai on 30.03.2026 with a representation explaining the delay, in light of

the law laid down by the Hon'ble Supreme Court in ***Bano Saiyed Parwaz v. Chief Controlling Revenue Authority and Inspector General of Registration and Controller of Stamps and Ors.*** reported in ***(2025) 2 SCC 201*** that mere technicality of limitation ought not to defeat a bona fide refund claim, while the petitioner duly appeared and filed his representation along with supporting documents. The District Magistrate, Begusarai, after affording due hearing and upon consideration of the entire material and record placed before him, passed a reasoned order dated 15.04.2026 (Annexure-C of supplementary counter affidavit) rejecting the petitioner's claim for refund. It is submitted that the said order having been passed in strict compliance with and in due deference to the directions of this Hon'ble Court, and after independent application of mind to the reasons furnished for the delay.

8. While giving thoughtful consideration of the issues raised for adjudication**,** this Court finds it apt to record that the grounds which have been taken by the counsel for the State to justify the impugned order has seriously been objected by the counsel for the petitioner, stating that the reasons for not filing application within the stipulated period has already been explained by making a clear mention of the fact that the

documents which were presented before the Registering authority for registering the document could not be registered because the vendor namely Sanjiv Kumar Agrawal did not appear before the Registering authority and the vendor executed four fresh sale deeds Nos. 1094, 1095,1096 and 1097 on 05.02.2024 for the same land in favour of third parties, and the Registering authority without any objection to the same got it registered in the name of proposed vendee, ignoring the earlier commitment for which there was already a suit specific performance filed, which is still pending. Despite all these facts being available with the Registering authority, the same was not considered and the grounds for rejection has been attributed that the delay has not been properly explained, while the issues of delay were also duly explained in this background, before the District Registrar, for persuading him for refund.

9. In order to buttress his submission, the petitioner has relied upon the judgment rendered by the Hon'ble Apex Court in ***Bano Saiyed Parwaz (supra)*** wherein it has been held that the limitation prescribed within which, if the application is not filed, may bar the remedy consequent to which the person may be restrained from seeking refund as per the legislation but, the right of refund is not taken away with such limitations

having been prescribed in the said legislation. Learned counsel for the petitioner further submits that the sufferings with regard to the petitioner which is being faced in the form of the Pancreatic cancer and details of which were also placed with all the supportive materials but for unexplained reasons have also not been considered by the District Registrar, Begusarai.

10. It has next been submitted that the only ground which has been raised by the counsel for the State for rejecting the refund application is that the delay has not been properly explained while the counsel for the petitioner, referring to the Rule 28(2) of the Bihar Stamp (Payment of Duty by means of E-Stamping) Rules, 2020, submits that the rule provides for application to be made within a period prescribed and once such application is not made within the time prescribed, in such event, the amount shall not be refunded, is contrary to the principles laid down by the Hon’ble Apex Court in view of the judicial pronouncement made on the subjects in issue.

11. This Court in order to decide the issues at hand, finds it appropriate to refer to the judgment of the Hon'ble Supreme Court in ***Bano Saiyed Parwaz*** (supra), wherein, it is held;

> *"16. We draw weight from the aforesaid judgment and are of the opinion that the case of the*

> *appellant is fit for refund of stamp duty insofar as it is settled law that the period of expiry of limitation prescribed under any law may bar the remedy but not the right and the appellant is held entitled to claim the refund of stamp duty amount on the basis of the fact that the appellant has been pursuing her case as per remedies available to her in law and she should not be denied the said refund merely on technicalities as the case of the appellant is a just one wherein she had in bona fide paid the stamp duty for registration but fraud was played on her by the vendor which led to the cancellation of the conveyance deed."*

12. The aforesaid principle has been reiterated and further explained by the Full Bench of the Hon'ble Supreme Court in ***Harshit Harish Jain & Anr. v. State of Maharashtra & Ors., (2025) 3 SCC 365***, wherein the court observed:

> *"20. Denying a legitimate refund solely on technical grounds of limitation, especially when the timing of registration fell close to the legislative amendment, fails to strike the equitable balance ordinarily expected in fiscal or quasi-judicial determinations. A measure of discretion or consideration for good faith conduct is not alien to statutory processes that safeguard citizens from unjust enrichment by the State."*

13. Applying the aforesaid principles to the facts of the present case, this Court is of the considered opinion that the

petitioner's claim for refund cannot be defeated merely on the ground of delay, particularly when the delay stands satisfactorily explained and the petitioner had bonafidely presented the document for registration, but the transaction failed solely on account of the conduct of the vendor. To deny refund in such circumstances would amount to permitting unjust enrichment by the State, which is impermissible in law.

14. In the case of ***Dr. Poornima Advani & Anr. v. Government of NCT & Anr.,*** reported in ***2025 INSC 262***, the Hon'ble Supreme Court held that the State cannot be allowed or permitted to unjustly enrich itself, much less in absence of there being any plausible justification for non-refunding the amount and relying upon the dictum rendered by the Hon’ble Apex Court in ***Mafatlal Industries Ltd. & Ors., v. Union Of India & Ors.*** reported in ***(1997) 5 SCC 536*** *“……. A person who unjustly enriches himself cannot be permitted to retain the same for its benefit except enrichment. Where it becomes entitled thereto doctrine of unjust enrichment can be invoked irrespective of any statutory provisions.”*

15. From the above, it can safely be construed that the said doctrine can be invoked irrespective of any statutory provision, when it is established on facts that there is no legal

justification to retain such amount. This Court is of the view that permitting the State to retain the stamp duty paid by the petitioner, despite the reasons for failure of the transaction in question being beyond the petitioner's control, would only facilitate the state being unjustly enriched.

16. This court in order to deal with the issues of delay and its condonation, coming in the way of the District Registrar, in not permitting refund to the petitioner, is required to addressed, by referring to the Judgment of the Hon’ble Apex Court in ***Mohd. Abaad Ali & Anr. vs. Directorate of Revenue Prosecution Intelligence*** reported in ***(2024) 7 SCC 91*** wherein the Supreme Court has observed that unless there is an express or implied bar to the applicability of the Limitation Act in a particular Special Act, the provisions of Section 5 of the Limitation Act would apply. That was a case where a belated appeal against acquittal was filed under Section 378 of the Code of Criminal Procedure and the appeal was accompanied by an application for condonation of the appeal. The delay condonation application was allowed by Delhi High Court and, thereafter, an application was moved for re-calling of the said order on the ground that Section 5 of the Limitation Act would not apply, since the period of filing an appeal against acquittal

has been. prescribed under Section 378(5) of the Code of Criminal Procedure itself and there is no provision for condonation of delay. The said application came to be dismissed which was challenged before the Supreme Court and the Supreme Court after analyzing the provisions of the Code of Criminal Procedure, 1973 and Limitation Act, 1963 held that the benefit of Section 5 can be availed in an appeal against acquittal in the absence of exclusionary provision under Section 378 of the Code of Criminal Procedure or at any other place in the Court.

17. Having considered the submissions advanced by the Counsel for the Petitioner and the State including the materials placed for consideration and the Judgments referred hereinabove, the impugned orders dated 01.01.2026 rejecting the application for refund of E-stamp fees including the Order dated 15.04.2026, which are said to have been passed in Misc. Case No.- 23 of 2026 by the Collector, Begusarai, whereby the application for refund made by the petitioner has been rejected solely on the ground that the application is barred by limitation and there is no sufficient ground put forth for consideration for refund has been made deserves to be interfered with as the District Registrar has failed to appreciate that there is no express

bar in the legislation that Section 5 of the Limitation Act, 1963 would not apply in adjudication of the cases for refund made by the applicant, whose registration of documents placed before the Registering authority, for the reasons being beyond his control could not be carried out, while in the instant case, the plausible reasons that the litigations have been generated on account of refusal by the vendor to ensure appearance before the Registering authority and same property having been registered in favour of other vendee by the same vendor through four different Registered deed by the same Registering authority after presentation of the document by the petitioner for same property was surely a well-reasoned explanation for consideration and further the Registering authority, being aware of the fact that the same property for which the petitioner had already presented the deed for registration and the vendor for ulterior reasons have executed the said sale-deed in favour of others generating civil litigation, the District Registrar was required to have applied its quasi-judicial mind while adjudicating the claim of refund keeping in row the fact that fresh rights have been created making the original dispute more complicated, and there being no likelihood of such suit being disposed in near future and besides the petitioner’s suffering with pancreatic cancer for which treatments are being undertaken and there is a dire need of financial support shown before this Court and equally before the District Registrar, Begusarai and such issues having not been adjudicated on merit, and purely on technical grounds referred in the aforementioned impugned orders to reject the claim of refund, this Court is of the firm view that without going into the issues of limitation, the necessary orders with regard to refund is required to be passed by the District Magistrate, Begusarai by adjudicating the claim of refund on merit by condoning the delay and finding the claim to be justified, the amount shall be refunded in favour of the petitioner shall be made forthwith. The reason put forth before this Court in explaining the delay for application for refund of e-stamp fee is apparently a sufficient cause/good grounds for condoning the delay by applying Section 5 of the Limitation Act, 1963 which has not been considered prudently by the authorities.

18. Accordingly, both the impugned orders dated 01.01.2026 and 15.04.2026 which is said to have been passed in Misc. Case No. 23 of 2026 by the Collector, Begusarai are set aside and the Collector, Begusarai is directed to refund the amount to the petitioner forthwith in above terms.

19. With the aforementioned observations and direction, the writ petition stands allowed.

(Ajit Kumar, J)

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