2026:PHHC:038988

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 12.03.2026

(I) CWP-480-2019 (O&M)

AMARJIT SINGH WALIA

...Petitioner(s)

VERSUS

THE COLLECTOR, UNION TERRITORY, CHANDIGARH

...Respondent(s)

(II) CR-7361-2019 (O&M)

CHANDIGARH ADMINISTRATION THROUGH COLLECTOR, UNION TERRITORY, CHANDIGARH

...Petitioner(s)

VERSUS

KAMAL KUMAR AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sharan Sethi, Advocate
for the petitioner in CWP-480-2019 and
for respondent No.3 in CR-7361-2019.

Ms. Sukhmani Patwalia, Addl. Standing Counsel and
Mr. Jaivir S. Chandail, Addl. Standing Counsel
for the petitioner in CR-7361-2019.

Mr. L. S. Virk, Senior Addl. Standing Counsel
for respondent-U.T. Chandigarh in CWP-480-2019.

Mr. Deepak Goyat, Advocate
for respondent No.2 in CR-7361-2019.

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JASGURPREET SINGH PURI, J. (Oral)

1. Both the petitions are taken up together for final disposal with the consent of the learned counsels for the parties as the issues involved are interconnected.

2. CWP-480-2019 has been filed by the petitioner, namely, Amarjit Singh Walia under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the refusal letter issued by the Collector, U.T., Chandigarh dated 10.09.2018 (Annexure P-13), with a further prayer to direct the respondent to refund the stamp duty amounting to Rs.16.99 lakhs, which was paid at the time of execution of the sale deed dated 05.01.2016 (Annexure P-4).

3. CR-7361-2019 has been filed by the Chandigarh Administration through Collector, Union Territory, Chandigarh under Article 227 of the Constitution of India read with Section 151 CPC challenging the order dated 22.01.2018 (Annexure P-6) passed by the learned Civil Judge (Junior Division), Chandigarh, whereby the application filed by respondent No.1-Kamal Kumar for refund of the stamp duty of an amount of Rs.16.99 lakhs has been allowed and a direction has been issued to the District Collector/Sub-Registrar to refund the stamp duty.

4. Since the issues involved are interconnected, the facts are being taken from *Civil Writ Petition No.480 of 2019*, titled as *Amarjit Singh Walia versus The Collector, Union Territory, Chandigarh*.

5. Mr. Sharan Sethi, learned counsel appearing on behalf of the petitioner in CWP-480-2019 while giving the facts of the case submitted that the petitioner was the General Power of Attorney holder of one Sh. Kamal Kumar, who had entered into an agreement to sell with another person, namely, Sh. H. L. Vij. The said Sh. Kamal Kumar filed a civil suit for specific performance against Sh. H. L. Vij in respect of a property, which is situated at

Motor Market and Commercial Complex, Manimajra, U.T., Chandigarh. The said civil suit for specific performance was decreed vide Annexure P-2 on 22.04.2013 in favour of Sh. Kamal Kumar. Thereafter, since the defendant-judgment debtor i.e. Sh. H. L. Vij did not appear for execution of the sale deed in pursuance of the aforesaid decree, another order dated 19.08.2015 (Annexure P-3) was passed by the learned Civil Judge (Junior Division), U.T., Chandigarh, whereby the aforesaid Sh. Kamal Kumar suffered a statement that the sale deed be executed in favour of the present petitioner, namely, Amarjit Singh Walia. The defendant-judgment debtor did not file any objections and consequently, since the petitioner was the General Power of Attorney holder of the aforesaid Sh. Kamal Kumar, who suffered the aforesaid statement, a direction was issued by the learned Civil Judge (Junior Division), Chandigarh for appointment of a Local Commissioner to get the sale deed of the aforesaid property executed. In pursuance thereof, a sale deed was executed on 05.01.2016 (Annexure P-4) in favour of the petitioner and stamp duty to the tune of Rs.16.99 lakhs was paid.

6. However, simultaneously resumption proceedings in respect of the aforesaid property were pending before the U.T., Chandigarh. Learned counsel for the petitioner submitted that in fact the plot which was the subject matter of the aforesaid decree stood resumed by the U.T., Chandigarh on 16.07.2009 and on a challenge being raised to the aforesaid resumption by way of a writ petition bearing No.CWP-23757-2013, the same was dismissed by a Division Bench of this Court on 28.05.2016 (Annexure P-5) and thereafter, an SLP was preferred but the same was also dismissed by Hon'ble Supreme Court on 30.09.2016 (Annexure P-6). He further submitted that although the plot stood

resumed on 16.07.2009 but the challenge to the resumption was pending before this Court, although there was no interim order of any sort whatsoever. In this way, at the time when the sale deed was registered on 05.01.2016, although the plot was under the state of resumption but the matter was pending before this Court with no interim order in operation and during this period, a decree for specific performance was passed in favour of the petitioner.

7. Learned counsel for the petitioner submitted that thereafter, when the SLP was dismissed on 30.09.2016, an application was filed before the learned Civil Judge (Junior Division), Chandigarh on 23.12.2016 seeking refund of the stamp duty of the aforesaid amount of Rs.16.99 lakhs on the ground that the SLP has been dismissed and resumption is in operation and since the property has not passed into the hands of the petitioner, the stamp duty be refunded to the petitioner and the learned Civil Judge (Junior Division), Chandigarh vide order dated 22.01.2018 (Annexure P-7), allowed the said application and directed the District Collector/Sub-Registrar to release the stamp duty after making necessary deductions, if any. However, despite the order passed by the learned Civil Judge (Junior Division), Chandigarh as aforesaid, no such refund was made to the petitioner and therefore, the present writ petition was filed for refund of the same.

8. Learned counsel submitted that so far as the Civil Revision Petition which has been filed by the Chandigarh Administration through the Collector, U.T., Chandigarh is concerned, the same challenges the aforesaid order dated 22.01.2018 passed by the learned Civil Judge (Junior Division), Chandigarh and therefore, both the petitions are interconnected.

9. Mr. Sethi submitted that since the ownership of the plot has not passed to the petitioner due to its resumption, the stamp duty is required to be refunded to him under the provisions of Sections 49 and 50 of the Indian Stamp Act, 1899 (hereinafter referred to as 'the Act of 1899'). In this regard, he referred to Section 49(d) of the Act of 1899 and submitted that under the aforesaid provision, it has been so provided that where the stamp has been used for an instrument executed by any party thereto which has been afterwards found to be absolutely void in law from the beginning, the stamp duty is required to be refunded back.

10. He further referred to the provisions of Section 50 of the Act of 1899 and submitted that although the period of limitation for moving an application is six months from the date of execution of the sale deed but the petitioner cannot be non-suited on the ground of limitation because he preferred an application before the learned Civil Judge (Junior Division), Chandigarh immediately after the SLP was dismissed and therefore, the question of limitation will not come to his disadvantage. He further submitted that the petitioner filed an application for refund of the stamp duty before the Collector, U.T., Chandigarh vide Annexure P-8 on 12.04.2018, which although was filed beyond the period of six months from the date of registration of the sale deed but he cannot be non-suited on the ground of limitation of six months because of the aforesaid reason.

11. Learned counsel for the petitioner submitted that by way of the impugned order (Annexure P-13), the claim of the petitioner for refund has not been declined on the ground of limitation but it was declined on the ground that

the stamp papers have already been used for the sale deed and therefore, the provisions of Sections 49 and 50 of the Act of 1899 are not applicable to the petitioner.

12. Learned counsel referred to the judgments passed by Hon'ble Supreme Court in ***The Committee-GFIL versus Libra Buildtech Private Limited and others, 2016 (1) RCR (Civil) 424*** and ***Bano Saiyed Parwaz versus Chief Controlling Revenue Authority and Inspector General of Registration and Controller of Stamps and others, 2024 SCC Online SC 979*** to contend that the provision of Section 50 of the Act of 1899 with regard to limitation of six months cannot be construed in a strict sense and a liberal approach is to be adopted on equitable grounds for the purpose of refund of the amount. He further submitted that a direction may be issued to the respondent-U.T., Chandigarh for refund of the aforesaid amount of Rs.16.99 lakhs to the petitioner, along with interest.

13. On the other hand, learned counsels appearing on behalf of the U.T., Chandigarh submitted that it is a case where the plot regarding which the decree was passed already stood resumed by the U.T., Chandigarh on 16.07.2009 and knowing fully well about the status of the plot that it was in the state of resumption and none of the private individual was the owner of the plot because ownership vests in the U.T., Chandigarh after resumption, still a suit was filed in the year 2005 by the aforesaid Sh. Kamal Kumar, for whom the petitioner holds the General Power of Attorney but the decree was passed on 22.04.2013, which was four years after the plot was resumed and in this way, none of the parties to the suit was the owner of the property because it was

already in the state of resumption. They further submitted that at the time when the decree was passed on 22.04.2013, the U.T., Chandigarh was not even impleaded as a party to the civil suit and at its back, the suit for specific performance was decreed and the subject matter of the suit which was the plot had already been resumed by the U.T., Chandigarh, although a writ petition was pending before this Court but there was no interim order of any sort and the suit was decreed without disclosing to the learned Civil Court by any of the parties including the petitioner that the plot already stands resumed.

14. They submitted that in this way, the petitioner in whose favour the sale deed was subsequently executed on 05.01.2016 as a General Power of Attorney holder, did not disclose to the learned Court about the same either at the stage of passing the decree or later when the Local Commissioner was appointed for execution of the sale deed in his favour, thereby amounting to misrepresentation, concealment of material facts and committing a fraud upon the Court and the State, which is comprised in the U.T., Chandigarh. They further submitted that the petitioner has deliberately committed fraud upon the State and the Court and it is a settled law that fraud vitiates all solemn acts and therefore, on this Court, the petitioner is not entitled for grant of any refund of the amount.

15. They submitted that apart from the above, it was when the SLP was dismissed by Hon'ble Supreme Court on 30.09.2016 that the petitioner filed an application before the learned Civil Judge (Junior Division), Chandigarh on 23.12.2016 i.e. after about three months for refund of the stamp duty and the learned Court vide order dated 22.01.2018 allowed the application without even

informing or impleading U.T., Chandigarh, to whom the directions were issued. They further submitted that the aforesaid order was not only violative of the principles of natural justice but the learned Court had got no competence or power to pass the same since there is no provision of law under which such an order can be passed by a learned Civil Judge for refund of the stamp duty. The power, if any, vests with the executive authorities as to whether refund is to be granted in accordance with law or not but there is no power vested with the learned Civil Court to pass such an order, which is now under challenge by way of the present Civil Revision Petition filed by the Chandigarh Administration through the Collector, U.T., Chandigarh. They also submitted that the Civil Revision Petition may be allowed and the order passed by the learned Civil Judge (Junior Division), Chandigarh be set aside as the same has been passed without any authority of law.

16. On the issue of limitation, learned counsels for the respondents submitted that otherwise also the claim of the petitioner for refund is hit by limitation in view of the provisions of Section 50 of the Act of 1899, which provides for limitation of six months. They further submitted that the sale deed was executed on 05.01.2016, whereas the petitioner filed an application seeking refund of the stamp duty before the Collector, U.T., Chandigarh vide Annexure P-8 on 12.04.2018 i.e. more than two years later and therefore, on this ground, the said application could not have been allowed and the petitioner was not entitled for grant of any refund of the amount. They further submitted that the mere fact that the petitioner filed an application before the learned Civil Court for refund of the amount would not mean that the limitation period can be

condoned on that ground. Even otherwise also, the aforesaid application was filed on 23.12.2016, which was also beyond the period of six months and therefore, there cannot be any refund of the amount on the basis of the application filed by the petitioner being hit by limitation of six months.

17. Learned counsels appearing on behalf of the U.T., Chandigarh submitted that the Civil Writ Petition filed by the petitioner is liable to be dismissed because no refund of the stamp duty can be granted and also the Civil Revision Petition filed by the Chandigarh Administration through the Collector, U.T., Chandigarh may be allowed and impugned order be set aside. They further submitted that none of the parameters contained under Section 49 of the Act of 1899 are satisfied in the present case for grant of refund, especially in view of the fact that the sale deed was registered at the instance of the petitioner himself and the petitioner in para No.15 of the present writ petition has specifically pleaded that at the time of registration of the sale deed, it was not expected that resumption proceedings would go against him and therefore, in this way, the petitioner has only taken a chance by paying the stamp duty. They also submitted that such kind of contingent actions of the petitioner cannot become a ground for refund of the stamp duty. A refund can be granted only when any of the parameters under Section 49 of the Act of 1899 are satisfied, which has not been fulfilled in the present case.

18. I have heard the learned counsels for the parties.

19. The dates which have been mentioned aforesaid by the learned counsels for the parties are not in dispute. Before proceeding further, it is

necessary to reproduce the provisions of Section 49(d)(1) and Section 50 of the Indian Contract Act, 1899, which are as under:-

> *"**49. Allowance for spoiled stamps**. —*
>
> *xxx-xxx-xxx-xxx*
>
> *(d) the stamp used for an instrument executed by any party thereto which—*
>
> *(1) has been afterwards found to be absolutely void in law from the beginning;"*
>
> *xxx-xxx-xxx-xxx*
>
> *"**50. Application for relief under section 49 when to be made.**—The application for relief under section 49 shall be made within the following periods, that is to say, —*
>
> *(1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument;*
>
> *(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;*
>
> *(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:"*
>
> *xxx-xxx-xxx-xxx*

20. Paragraph No.15 of the Civil Writ Petition is also reproduced as under:-

> *"15. That it is submitted that the sale deed was only registered in favour of the petitioner on 05.01.2016 subsequent to the passing of the decree of Specific Performance dated 22.04.2013 in his favour and also passing of order of registration of sale deed by the Civil*

Judge dated 19.08.2015 and at that time, it was not expected that the resumption proceedings would go against the petitioner."

21. When the suit for specific performance was allowed by the learned Civil Judge (Junior Division), Chandigarh on 22.04.2013 vide Annexure P-2 with respect to a plot i.e. SCF No.37, Motor Market and Commercial Complex, Manimajra, U.T., Chandigarh, admittedly the same was in a state of resumption and it stood resumed by the U.T., Chandigarh. Although a writ petition challenging the aforesaid resumption was pending before this Court but as per all the learned counsels for the parties, there was no interim order at all in the said petition. In this way, the resumption was in operation at the time when the decree for specific performance was passed. It was later on that the writ petition was dismissed by a Division Bench of this Court on 28.05.2016 and the SLP was also dismissed on 30.09.2016. From para No.15 of the writ petition, it is clear that the petitioner had taken a chance in proceeding with the registration of the sale deed as he was not expecting that the resumption proceedings would go against him. In this way, knowing fully well that the plot already stands resumed, the petitioner paid the stamp duty and the sale deed was registered. When the resumption order stood affirmed till Hon'ble Supreme Court, the petitioner realized that at least the stamp duty be got refunded and therefore, he filed an application before the learned Civil Judge (Junior Division), Chandigarh seeking refund of the stamp duty, which was allowed vide Annexure P-7. The said application was filed on 23.12.2016 and decided on 22.01.2018 vide Annexure P-7. The U.T., Chandigarh was neither a party to the

civil suit nor to the aforesaid application but a direction was issued to the District Collector/Sub-Registrar in the aforesaid application to release the stamp duty to the petitioner. Apart from the aforesaid application, the petitioner also filed an application vide Annexure P-8 before the Collector, U.T. Chandigarh on 12.04.2018 seeking refund of the stamp duty, which was more than two years after the registration of the sale deed and the Collector, U. T., Chandigarh declined the same vide Annexure P-13 and this order of refusal has been impugned in the present Civil Writ Petition.

22. The first issue which was raised by the learned counsel for the petitioner that the petitioner was entitled for the refund under Section 49 of the Act of 1899, has to be considered first. A perusal of the aforesaid provision of Section 49(d)(1) of the Act of 1899 would show that the Collector may, on an application made within the period prescribed in Section 50, and if satisfied as to the facts, allow a refund for impressed stamps that have been spoiled in the cases where the stamp used for an instrument executed by any party thereto has been afterwards found to be absolutely void in law from the beginning. It was the argument of the learned counsel for the petitioner that it was only when Hon'ble Supreme Court dismissed the SLP that it was found that the instrument was void in law and therefore, the application for refund was filed. However, this Court is unable to agree with the contention raised by the learned counsel for the petitioner in view of the fact that there is no finding by any order or judgment later in point of time that the sale deed was void in law. The aforesaid provision specifically provides that after an instrument is executed, it is only afterwards if it is found to be absolutely void in law that refund can be claimed

and no such document has been produced before this Court, wherein any such finding has been recorded by any authority or judgment. Therefore, clearly the aforesaid provision of Section 49(d)(1) of the Act of 1899, is not applicable in the present case. Apart from the above, none of the other provisions or parameters contained under Section 49 of the Act of 1899 apply to the facts and circumstances of the present case and therefore, no such refund could have been permitted to the petitioner under the provisions of Section 49 of the Act of 1899.

23. So far as the period of limitation provided under Section 50 of the Act of 1899 is concerned, the refund under Section 49 of the Act of 1899 is subject to Section 50 of the Act of 1899, which provides for a limitation period of six months and as per sub-section (3) of Section 50 of the Act of 1899, in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, an application for refund must be made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed. In this way, the prescribed period of limitation was six months after execution of the instrument. In the present case, the application dated 12.04.2018 (Annexure P-8) was filed by the petitioner after a period of more than two years and therefore, clearly beyond six months. So far as the application filed before the learned Civil Judge (Junior Division), Chandigarh is concerned, the same was also filed on 23.12.2016, which was also beyond the prescribed limitation period of six months. Even otherwise also, in case any application was filed before the learned Civil Judge for refund of stamp duty, the same cannot be

considered to be an application filed under Section 50 of the Act of 1899 and it is only the application filed before the Collector, U.T., Chandigarh vide Annexure P-8 on 12.04.2018 that can be considered to be an application under Section 50 of the Act of 1899 and not an application filed before the learned Civil Judge. Admittedly, the application was filed after more than two years vide Annexure P-8 and therefore, it was beyond the period of limitation of six months.

24. On the issue of limitation, learned counsel for the petitioner has referred to the judgments passed by Hon'ble Supreme Court in ***The Committee-GFIL's case (Supra)*** and ***Bano Saiyed Parwaz's case (Supra).*** However, the aforesaid judgments are distinguishable and are not applicable to the facts and circumstances of the present case.

25. Apart from the above, a Division Bench of this Court in ***LPA-847-2019***, titled as ***State of Haryana and another versus ASP Sarin Reality Private Limited***, decided on ***15.10.2025*** observed that refund of excess stamp duty voluntarily paid is bound to be refused if claimed beyond the period of prescribed limitation. Relevant portion of the aforesaid judgment is reproduced as under:-

> *"9. Keeping in view the above, the learned Single Judge has erred in the interpretation given to the said clause of 1899 Act, so as to mean that refund of excess stamp duty paid voluntarily can be sought at any given point of time irrespective of the time lapse as that said view will be contrary to the legislature intent and basic nature of the refund provided by the Legislature under Section 45 (2) of the 1899 Act which specifically prescribes a time bound*

mechanism for seeking refund of duty paid in excess as per Section 45 (2) of the 1899 Act."

26. Therefore, the application which was filed by the petitioner was clearly beyond the period of limitation and consequently, no such refund could have been granted beyond that.

27. So far as the impugned order dated 10.09.2018 (Annexure P-13) passed by the Collector, U.T., Chandigarh on the ground that the case of the petitioner is not covered under Sections 49 and 50 of the Act of 1899 because the stamp papers have already been used for the sale deed is concerned, no fault can be found in the aforesaid order, even though it does not refer to the period of limitation. This is in view of the non-fulfillment of any of the provisions of Section 49 of the Act of 1899 because the case of the petitioner does not fall in any of the provisions under Section 49 of the Act of 1899. The petitioner knowing fully well that the plot stands resumed took a chance to get the sale deed registered and thereafter, when the resumption proceedings attained finality till Hon'ble Supreme Court, then he contingently filed an application for refund after a period of two years. Therefore, the petitioner is not entitled to the refund. No fault, perversity or illegality can be found in the impugned dated 10.09.2018 (Annexure P-13) passed by the Collector, U.T., Chandigarh.

28. In view of the above, the present Civil Writ Petition No.480 of 2019 is hereby **dismissed**.

29. So far as the Civil Revision Petition filed by the Chandigarh Administration through the Collector, U.T., Chandigarh is concerned, the same deserves to be allowed in view of the fact that on an application filed by the

petitioner for refund of the stamp duty before the learned Civil Court, the learned Civil Court passed an order directing the District Collector/Sub-Registrar to refund the stamp duty, even though the U.T., Chandigarh and the District Collector/Sub-Registrar were neither parties to the proceedings before the learned Civil Court initially nor at the time of the aforesaid application. Not only this, there is no provision of law under which such an order can be passed by the learned Civil Judge (Junior Division), Chandigarh directing the District Collector/Sub-Registrar to refund the stamp duty. Therefore, the order dated 22.01.2018 (Annexure P-6) passed by the learned Civil Judge (Junior Division), Chandigarh is without any competence and without the authority of law.

30. Consequently, the Civil Revision No.7361 of 2019 is **allowed** and the order dated 22.01.2018 (Annexure P-6) passed by the learned Civil Judge (Junior Division), Chandigarh, is hereby set aside.

(JASGURPREET SINGH PURI)
JUDGE

12.03.2026
Chetan Thakur

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