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

**CR-2696-2026
Date of Decision: 25.03.2026**

GURMIT SINGH .... Petitioner

Versus

MANDEEP KAUR ..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Gagandeep Singh, Advocate
for the petitioner.

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YASHVIR SINGH RATHOR, J. (Oral)

1. This revision petition under Article 227 of the Constitution of India is directed for the modification of the impugned order dated 05.12.2025 (Annexure P-2), vide which an application filed by the petitioner-plaintiff for impounding the document, i.e., agreement to sell dated 24.04.2021 (Annexure P-1), was allowed subject to making good the deficiency of stamp duty plus payment of penalty, which is 10 times the value of the deficit amount of stamp duty.

2. In view of the nature of the order proposed to be passed, issuance of notice to the respondent is dispensed with as respondent-defendant is already *ex parte* before the Trial Court.

3. I have heard the learned counsel for the petitioner/revisionist and have gone through the material on record.

4. On 05.12.2025, the following has been passed:-

> "*1. The applicant Gurmit Singh has filed an application for impounding the document i.e. agreement to sell dated 24.04.2021. It is averred in the application that present suit is a suit for specific performance of agreement to sell dated 24.04.2021. Said agreement to sell is unstamped document and to prove the said document the said agreement to sell is required to be impounded by the Court. It is further averred that plaintiff is ready to pay the stamp duty over the agreement to sell as well as ready to pay the penalty to make deficiency of stamp duty which is very much necessary to prove the said document and it will also help the court to arrive at a correct conclusion of the case. In the end, prayer for allowing the application is made.*
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> *2. After hearing the submissions of Learned counsel for the plaintiff and perusing the record, this court is of the view that the document in question is required to be taken into official custody to prevent its misuse/tampering/disappearance. Therefore, application in hand stands allowed. The original agreement to sell in question is ordered to be impounded and plaintiff is directed to make good the deficiency of stamp duty plus penalty which is 10 times the value of deficit amount of stamp duty. Reader of this court is directed to make note with red ink on the agreement to sell with regard to impounding of agreement to sell in question. Application stands disposed off accordingly.*
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> *Civil Judge (Jr. Division)*
> *Hoshiarpur/UID 0502* "

5. Short prayer made in the present revision petition is to

reduce the amount of penalty imposed to the extent of 10 times of the deficiency in stamp duty, as ordered by the Trial Court in the impugned order.

6. Learned counsel for the petitioner contends that the petitioner had no intention to avoid payment of stamp duty. However, he was ignorant of the amendment in the Stamp Act which required affixing of stamp duty on the sale consideration. Learned counsel further contends that the order imposing penalty of 10 times on the original amount is too harsh and requests for a reduction in the same. In support of his contention, learned counsel relied upon Law Finder Doc Id#2566640 titled ***'Sham Lal Vs. Satwinder Singh',*** 2023 (1) PLR 343 titled ***'Amit Kumar Vs. Neha Bhatia and others'*** and 2020 (9) SCC 510 titled '***Trustees of H.C. Dhanda Trust Vs. State of Madhya Pradesh and others'.***

7. The plaintiff has filed the present suit for specific performance of the agreement to sell dated 24.04.2021 in respect of the suit property which the defendant agreed to sell in his favour for a sum of Rs.6 lakh. He himself moved the application, in hand, for impounding the document as it was unstamped and made a prayer for impounding the document and further submitted that he is ready to pay the stamp duty on the said agreement to sell alongwith the penalty to make good the deficiency of stamp duty and the Trial Court directed him to deposit a penalty 10 times the value of the deficient amount of stamp duty besides making good the deficiency of stamp duty.

8. While interpreting Sections 33, 35, 38 and 39 of the Indian Stamp Act, 1899, Hon'ble the Supreme Court in Trustees of H.C. Dhanda

Trust (supra) held that imposition of penalty to the extent of ten times deficiency in the stamp duty is not mandatory and discretion lies with the competent authority. Relevant discussion is in paragraph No.17 and 18 of the judgment, which are extracted as under:-

> *"17. The amount of penalty thus can be an amount not exceeding ten times. The expression "an amount not exceeding ten times" is preceded by expression "if he thinks fit". The statutory scheme, thus, vests the discretion to the Collector to impose the penalty amount not exceeding ten times. Whenever statute transfers discretion to an authority the discretion is to be exercised in furtherance of objects of the enactment. The discretion is to be exercised not on whims or fancies rather the discretion is to be exercised on rational basis in a fair manner. The amount of penalty not exceeding ten times is not an amount to be imposed as a matter of force. Neither imposition of penalty of ten times under Section 40 (1) (b) is automatic nor can be mechanically imposed. The concept of imposition of penalty of ten times of a sum equal to ten times of the proper duty or deficiency thereof has occurred in other provisions of the Act as well. We may refer to Section 35 (a) in this context which is as follows:*
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> > *35. Instruments not duly stamped inadmissible in evidence, etc.-No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:*
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> > *(a) any such instrument shall be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of any instrument insufficiently stamped, of the amount required to make*

up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(b).....”

18. It is relevant to notice that Section 35 contemplates that when ten times the amount of the proper duty of or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion is required to be deposited. Under Section 39 Collector is empowered to refund penalty. As noticed above under Section 35 (a) there is no option except to pay sum equal to ten times of such duty or deficient portion but Section 39 empowers the Collector to refund any portion of the penalty in excess of five rupees which is expressed in following words: "if he thinks fit refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument."

9. In Amit Kumar (supra), the Coordinate Bench of this Court, while relying on Trustees of H.C. Dhanda Trust (supra) observed that imposition of penalty to the extent of ten times of deficiency in Stamp duty is not mandatory and discretion lies with the authority.

10. In the present case also, there is no material to show that the petitioner-plaintiff had intentionally tried to evade the payment of stamp duty or attempted to cause loss to the revenue. Rather, he had himself moved the application, in hand, for impounding of the document to enable him to make good the deficiency and in view of the provision of Entry No.5 Clause (cc) of Schedule-I-A as applicable to the State of Punjab, stamp duty on the amount indicated in the agreement is required to be paid. In view thereof, the petitioner shall be liable to deposit the stamp duty alongwith an equivalent amount as penalty.

11. In view of the abovesaid facts and circumstances, the present revision petition is allowed and the petitioner is directed to make good the deficiency in stamp duty alongwith the amount of penalty equivalent to the amount of stamp duty instead of 10 times.

12. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

25.03.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No