



2026:AHK-LKO:70764

A.E.R.

Reserved

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 2129 of 2022

Smt. Manmeet Kaur

.....Petitioner(s)

Versus

State of U.P. through its Additional Chief Secretary Stamp and
Registration, Lucknow and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Onkar Nath Tiwari, Aniket Srivastav, Pankaj Mishra, Satish Chandra Kashish
Counsel for Respondent(s)	: C.S.C.,

Court No. - 16

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Sri. Onkar Nath Tiwari, along with Sri Satish Chandra Kashish, learned counsel appearing for the petitioner and Sri. Arun Kumar Singh, learned Standing Counsel appearing on behalf of State/respondents Nos. 1 to 3, are present.

2. By means of the present Petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

“(I) to issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 17.2.2022 passed by the opposite party No. 2 contained as Annexure No. 2 to this writ petition as well as order dated 18/02/2020 passed by the collector Gonda contained in Annexure No. 4 to this extent so far as Court below imposed excess penalty and refuse to waive off penalties imposed upon petition along with stamp deficiencies in view of The government order dated 24.12.2021.

(II) to issue a writ, order or direction in the nature of mandamus for commanding opposite parties to consider the application of the petition to waive off penalties imposed upon the petitioner regarding deficiency of stamp while getting executed the instrument i.e. sale deed dated 14.3.2019 in view of the Government order dated 24.12.2021 in the interest of justice.

(III) to issue any writ, order or directions which this Hon'ble Court may deem just and proper in the circumstance of the case.

(IV) award the cost of the petition to the petitioner.

(V) to issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 17.02.2022 passed by the Opposite party no. 2 contained as Annexure no. 2 to this writ petition as well as order dated 18.02.2020 passed by Collector, Gonda contained as Annexure no. 4 in terms of benefits provided under the government order dated 24.12.2021 for settlement of all the stamp deficiency pending at different stages and also waive of the penalties imposed upon the petitioner as per government order.”

3. The aforesaid prayer no. (v) has been incorporated by the petitioner by way of amendment pursuant to the order dated 13.09.2024 passed by this Court.

4. The State-respondents Nos. 1 to 3 filed their counter affidavit dated 18.05.2022 along with an application for dismissal of the writ petition.

5. A succinct recap of the factual matrix, as adumbrated in the pleadings, is that the petitioner purchased a piece of land through a registered sale deed dated 14.03.2019 registered as Document / Deed no. 4490/2019 in Gata No. 499/0.210 hectare, ad-measuring area-189.75 square meters situated at Revenue Village Gird Gonda, Gramin Pargana Tehsil and District- Gonda, Uttar Pradesh for a consideration of Rs. 63,67,000/- (Sixty-Three Lakh Sixty- Seven Thousand only). The petitioner on the said Sale Deed, paid the stamp duty at the rate of Rs. 7,000/- per square meters (Rs. Seven Thousand only).

6. The Sub-Registrar Gonda reported a deficiency in stamp duty and on the basis of the said report the Collector, Gonda (Opposite Party No.3) initiated proceedings under Section 47A of the Indian Stamp Act, 1899.

7. As per the report submitted by the Sub-Registrar, Gonda (Sadar) which is the foundation of the aforesaid proceedings; the petitioner's purchased land situates on the main Gonda – Bahraich road and is adjacent to the land that was purchased by her husband namely Sri. Gurmeet Singh under the registered Sale Deed having No.- 4489/2019 on the payment of the Stamp duty @ Rs. 28,000 per square meter,

whereas for the rear portion of the same property, the petitioner/ Smt. Manmeet Kaur wife of Sri. Gurmeet Singh has paid Stamp duty @ of Rs. 7,000 per square meter on the Sale Deed No. 4990/2019 executed in her favour. Notwithstanding, that both sale deeds pertained to the two portions of the same integrated property.

8. In the aforesaid proceedings a notice dated 20.06.2019 was issued indicating 05.02.2020 as the date fixed in the case. However, the Petitioner did not appear before the learned Collector Gonda / Opposite party No. 3 nor submitted any objection / reply or contested the Sub-Registrar's report, despite due opportunities having been given to her. The Collector (Opposite Party No. 3) then proceeded with the case *ex-parte* against the petitioner. Finally, the learned Collector (Opposite Party No.3) *vide* order dated 18.02.2020 decided the case by holding that the petitioner had deliberately split a single property into two conveyances and with ulterior motive applied different rates to two portions of the same unit in getting the Sale Deed registered, and held deficiency in the Stamp duty in respect of subject matter of instrument. While passing the impugned order the learned Collector (Opposite Party No. 3) observed that, since the petitioner despite due service of notice and sufficient opportunity, failed to appear in the proceedings and did not file any objection / reply, thereby leaving the material available on record un rebutted. Upon consideration of the record, the learned Collector (Opposite Party No.3) in Case no. 00825/2019 found no reason to disbelieve the inspection report submitted by the Sub-Registrar, Gonda (Sadar) in the absence of any evidence to the contrary. Consequently, the petitioner was directed to pay the deficient stamp duty of Rs. 3,52,190/- with 100 percent penalty, totaling to Rs. 7,04,380/- along with the interest. For ready reference the relevant part of the impugned order dated 18.02.2020 is extracted herein below:

“... . बार-बार पुकार कराई गयी। विपक्षी की ओर से कोई भी उपस्थित नहीं है। जिला शासकीय अधिवक्ता, राजस्व उपस्थित हैं, जिन्हें सुना गया। विपक्षिणी को उत्तर पत्र प्रस्तुत किये जाने हेतु पर्याप्त समय प्रदान किया गया किन्तु उनके द्वारा न्यायालय पर उपस्थित आकर अपना उत्तर पत्र प्रस्तुत नहीं किया गया है।

विपक्षिणी द्वारा नोटिस का कोई संज्ञान न लिया जाना इस बात का द्योतक है कि उन्हें इस सम्बन्ध में कुछ नहीं कहना है। मेरे द्वारा पत्रावली पर उपलब्ध समस्त सुसंगत अभिलेखों का सम्यक रूप से परिशीलन किया गया। तथ्यों से स्पष्ट है दूषित मंशा से करापंचन की नियत से एक ही यूनिट/भवन को दो भागों में विभाजित कर विलेख को पंजीकृत कराया गया है। उप निबन्धक गोण्डा (सदर) की जाँच आख्या पर अविश्वास किये जाने का कोई कारण परिलक्षित नहीं हो रहा है। अतएव जाँच आख्या में आरोपित कमी स्टाम्प शुल्क को शासकीय हित में जमा कराया जाना आवश्यक है।”

9. The petitioner, thereafter, filed appeal under section 56(1-A) of Indian Stamp Act, 1899 before the learned Additional Commissioner, Devi Patan Mandal, Gonda (Opposite Party No. 2). The said Appeal was registered as Case no. 00418/2020 (Computerized Case No.-C 202008000000418).

10. The petitioner, in the said appeal filed an application on 03.03.2021 dated 18.02.2021 / 03.03.2021 praying therein for preponement of the date fixed for hearing of Appeal. In the said application the petitioner stated that she did not wish to further continue with the said Appeal and is willing to make the payment of the amount already determined as deficiency in the stamp duty. For ready reference, the contents of the said Application filed on 03.03.2021 is reproduced herein below:

"न्यायालय श्रीमान अपर आयुक्त महोदय देवीपाटन मण्डल गोण्डा।

मनमीत कौर
बनाम
सरकार उ.प्र.

धारा 56 (1 क) स्टाम्प अधिनियम
वाद सं०-202008000000418
ता० पेशी-19.03.2021

प्रार्थना पत्र वास्ते सुनवायी किये जाने आज।

श्रीमान जी,

प्रार्थिनी को विद्वान अवर न्यायालय, न्यायालय श्रीमान जिलाधिकारी महोदय गोण्डा के न्यायालय पर सुनवायी का अवसर नहीं मिला और एकपक्षीय कार्यवाही होकर दिनांक 18.02.2020 को आदेश पारित हुआ है, जिसके विरुद्ध वर्तमान अपील न्यायालय श्रीमानजी के समक्ष प्रस्तुत की गयी है। विधिक राय के अनुसार प्रार्थिनी अपील आगे नहीं चलाना चाहती है और संलग्नक प्रार्थना पत्र के आधार पर कमी स्टाम्प जमा करना चाहती है, इसलिए नियत तिथि के स्थान पर अपील उपरोक्त की आज ही सुनवायी किया जाना आवश्यक है।

अतः सादर प्रार्थना है कि न्यायहित में अपील उपरोक्त सुनवायी दिनांक 19.03.2021 के स्थान पर आज किये जाने की कृपा की जावे।

दिनांक -18.02.2021

03.03.2021

प्रार्थिनी/अपीलान्ट

मनमीत कौर

द्वारा-

गनेश कुमार श्रीवास्तव, एडवोकेट"

11. The petitioner also filed an application dated 18.02.2021 / 03.03.2021. The said application is reproduced herein below for ready reference :

" न्यायालय श्रीमान अपर आयुक्त महोदय देवीपाटन मण्डल गोण्डा।

मनमीत कौर

बनाम

सरकार उ.प्र.

धारा 56(1 क) स्टाम्प अधिनियम

वाद सं०-सी-202008000000418

ता० पेशी-19.03.2021

कमी स्टाम्प शुल्क पर अधिरोपित अर्थदण्ड माफ़ फरमाकर कमी स्टाम्प शुल्क व निबन्धन शुल्क जमा कराये जाने के सम्बन्ध में।

श्रीमान जी,

प्रार्थिनी को विद्वान अवर न्यायालय, न्यायालय श्रीमान जिलाधिकारी महोदय गोण्डा के न्यायालय पर सुनवायी का अवसर नहीं मिला और एकपक्षीय कार्यवाही होकर दिनांक 18.02.2020 को आदेश पारित हुआ है, जिसमें विद्वान अवर न्यायालय ने बिलेख संख्या 4490/2019 पर 352190/-रु० कमी स्टाम्प व निबन्धन शुल्क को जमा करने की हिदायत के साथ ही साथ इतने ही धनराशि का अर्थदण्ड अधिरोपित कर दिया है, जो बहुत ज्यादा है, अर्थदण्ड के प्रभावी रहने से प्रार्थिनी को सख्तहकतलफी व अपूर्णनीय क्षति हो रही है। प्रार्थिनी ने स्वयं जानबूझकर स्टाम्प शुल्क कम नहीं लगाया है, बल्कि लेखक द्वारा दिये गये सलाह के आधार पर बिलेख संख्या 4490/2019 पर स्टाम्प व निबन्धन शुल्क अदा किया गया है। लेखक की गलती व उसके गलत राय के आधार पर ऐसा हुआ है जो क्षमा योग्य है और प्रार्थिनी अर्थदण्ड माफी की अधिकारिणी है।

अतः सादर प्रार्थना है कि न्यायहित में अवर न्यायालय द्वारा पारित आदेश में आंशिक संशोधन करते हुए अर्थदण्ड अति न्यून कर दिया जावे और स्टाम्प व निबन्धन शुल्क जमा करने की अनुमति प्रदान की जावे।

दिनांक - 18.02.2021

03.03.2021

प्रार्थिनी / अपीलान्ट

मनमीत कौर

द्वारा-

गनेश कुमार श्रीवास्तव, एडवोकेट"

12. It is evident from the perusal of the above-quoted application that the petitioner voluntarily admitted the deficiency in stamp duty, attributing it

to the wrong advice given by the sale-deed writer and had very categorically expressed her willingness to deposit the deficient amount. However, in the second application she prayed for the waiver of the penalty imposed on her *vide* the impugned order dated 18.02.2020.

13. On the receipt of the aforesaid application submitted by the petitioner, the learned Additional Commissioner (Opposite Party No. 2) dismissed the Appeal *vide* the order dated 25.03.2021. For ready reference, the order dated 25.03.2021 is reproduced below:

“25.03.2021—पत्रावली प्रस्तुत, पुकार करायी गयी। उभयपक्ष जरिये विद्वान अधिवक्ता उपस्थित है, जिन्हे सुना गया तथा पत्रावली का अवलोकन किया गया। प्रार्थिनी / अपीलार्थिनी के विद्वान अधिवक्ता द्वारा दिनांक 03.03.2021 को प्रार्थनापत्र प्रस्तुत करते हुए, अपील को न चलाये जाने का अनुरोध किया गया है। अतः चूंकि अपीलांत उपरोक्त अपील को नहीं चलाना चाहते हैं इसलिए उपरोक्त अपील प्रार्थनापत्र दिनांकित 03.03.2021 के आधार पर निरस्त की जाती है। अपील में यदि कोई स्थगन आदेश पारित है, तो उसे वापस लिया जाता है। अपीलीय पत्रावली बाद आवश्यक कार्यवाही दाखिल दफ्तर की जाये।”

14. The pleading as is available on record shows that, the petitioner pursuant to the impugned order, deposited the following amounts:

- (i) Rs. 1,00,000/- (One Lakh only) *vide* Challan No. CH00034 dated 17.03.2021;
 - (ii) Rs. 1,00,000/- (One Lakh only) *vide* Challan No. G300019 dated 03.07.2021;
 - (iii) Rs. 40,000/- (Forty Thousand only) *vide* Challan No. HL00030 dated 21.08.2021;
 - (iv) Rs. 1,00,000/- (One Lakh only) *vide* Challan No. IA00016 dated 10.09.2021; and
 - (v) Rs. 1,58,076/- (One Lakh Fifty-Eight Thousand Seventy-Six only), *vide* Challan No. IS00037 dated 28.09.2021 along with interest;
- making a total payment of Rs. 4,98,076/- (Four Lakh Ninety-Eight Thousand Seventy-Six only).

15. There is nothing on record to indicate that the petitioner ever challenged the aforesaid order dated 25.03.2021 as such the same attained finality.

16. The petitioner thereafter filed an another Appeal on 18.11.2021 against the order of the Collector (Opposite Party No.3) dated 18.02.2020 again under Section 56(1-A) of the Indian Stamp Act, 1899. The said Appeal was registered as Case No. 1174 of 2021 (Computerized Case No. C202108000001174) before the learned Additional Commissioner, Devi Patan Mandal, Gonda (Opposite Party No. 2) challenging the order dated 18.02.2020 for the second time before the same forum, on the identical grounds, as quoted herein below for ready reference:

- "1. यह कि योग्य अधीनस्थ न्यायालय द्वारा पारित एकपक्षीय निर्णय विधि एवं व्यवस्था के विपरीत है और प्रत्येक अवस्था में खण्डित होने योग्य है।
2. यह कि योग्य अधीनस्थ न्यायालय ने स्टॉम्प कमी पर 100 प्रतिशत अर्थदण्ड अपीलान्त के विरुद्ध आरोपित करने में कानूनन व वाक्यातन गलती की है।
3. यह कि योग्य अधीनस्थ न्यायालय ने प्राकृतिक न्याय के सिद्धान्तों का उल्लंघन करते हुए बिना अपीलान्त की सुनवाई किये एकपक्षीय निर्णय सरसरी तौर से पारित करने में कानूनन व वाक्यातन गलती की है।
4. यह कि योग्य अधीनस्थ न्यायालय ने अपीलान्त पर डेढ़ प्रतिशत साधारण ब्याज प्रतिमास आरोपित करने में कानूनन व वाक्यातन गलती की है।"

17. The aforesaid Appeal having Case No. 1174 of 2021, came to be dismissed *vide* order dated 17.02.2022 as not maintainable on the ground that the petitioner herself had voluntarily withdrawn the earlier appeal and expressed her willingness to pay the deficient stamp duty as determined by the Collector / District Magistrate (Opposite Party No.3) *vide* order dated 18.02.2020, as such appeal against the same very order is not maintainable under law. For ready reference, the impugned order dated 17.02.2022 is reproduced herein-below :

" प्रार्थिनी / अपीलार्थिनी श्रीमती मनमीत कौर द्वारा प्रार्थनापत्र दिनांकित 17.02.2022 में शासन के पत्र संख्या -12/2021/1302/94-स्टा0 नि0-2-2021-700 (01)/2015 (स्टाम्प एवं निबंधन अनुभाग-2) दिनांक 24.12.2021 का उल्लेख कर, प्रार्थिनी / अपीलार्थिनी के ऊपर आरोपित स्टाम्प कमी के अर्थदण्ड को माफ करते हुए, मूल स्टाम्प कमी जमा कराने का आदेश

पारित किये जाने का अनुरोध किया गया है। अपीलार्थिनी द्वारा प्रस्तुत प्रार्थनापत्र के विरो में मण्डलीय शासकीय अधिवक्ता (राजस्व) द्वारा अपना पक्ष रखते हुए यह कहा गया है कि अपीलार्थिनी द्वारा प्रश्नगत आदेश के विरुद्ध पूर्व में ही अपील प्रस्तुत की गयी थी, जिसे स्वेच्छा से अपीलार्थिनी ने विड़ा कर लिया था, इसलिए प्रश्नगत आदेश से उसकी क्षुब्धता नहीं रह गयी है। अपीलार्थिनी द्वारा 05 किस्तों में आरोपित धनराशि भी जमा किया जा चुका है, अंतिम किस्त उसके द्वारा दिनांक 28.09.2021 को जमा की गयी है। चूंकि अपीलार्थिनी ने पूर्व में स्वयं अपील को विड़ा किया है इसलिए दुबारा प्रश्नगत आदेश के विरुद्ध अपील विधि की दृष्टि में ग्राह्य योग्य नहीं है।

उभयपक्ष के विद्वान अधिवक्तागण के तर्कों को सुनने तथा पत्रावली पर उपलब्ध अभिलेखों के अवलोकन से स्पष्ट है कि अपीलार्थिनी श्रीमती मनमीत कौर की द्वारा अवर न्यायालय जिलाधिकारी / कलेक्टर, गोण्डा के आदेश दिनांक 18.02.2020 के विरुद्ध अपील संख्या-सी 202008000000418 मनमीत कौर बनाम सरकार योजित की गयी थी, जो दिनांक 23.07.2020 को सुनवाई हेतु ग्राह्य हुई किन्तु कालान्तर में अपीलार्थिनी द्वारा प्रार्थनापत्र दिनांकित 03.03.2021 प्रस्तुत करते हुए, अपील संख्या-सी 202008000000418 को न चलाये जाने का अनुरोध किया गया, जिस पर न्यायालय द्वारा दिनांक 25.03.2021 को अपीलार्थिनी द्वारा प्रस्तुत प्रार्थनापत्र दिनांकित 03.03.2021 के आधार पर अपील को निरस्त किया गया है। अपीलार्थिनी द्वारा पुनः जिलाधिकारी / कलेक्टर के उसी आदेश दिनांक 18.02.2020 के विरुद्ध दिनांक 18.11.2021 को उपरोक्त अपील योजित, कर शासनादेश दिनांकित 24.12.2021 के आधार पर प्रार्थनापत्र प्रस्तुत कर, स्टाम्प कमी के अर्थदण्ड को माफ करने का अनुरोध किया गया है। चूंकि अपीलार्थिनी ने स्वेच्छा से प्रश्नगत आदेश दिनांक 18.02.2020 के विरुद्ध योजित की गयी अपील संख्या-सी 202008000000418 मनमीत कौर बनाम सरकार को विड़ा कर लिया गया है इसलिए पुनः उसी प्रश्नगत आदेश के विरुद्ध योजित की गयी अपील में ग्राह्य किये जाने तथा समाधान योजना के अन्तर्गत अपीलार्थिनी को लाभ दिये जाने का कोई औचित्य प्रतीत नहीं होता है। तद्विषय प्रार्थिनी / अपीलार्थिनी द्वारा प्रस्तुत प्रार्थनापत्र दिनांकित 17.02.2022 के साथ-साथ अपीलांत द्वारा प्रस्तुत की गयी अपील भी निरस्त की जाती है। पत्रावली बाद आवश्यक कार्यवाही दाखिल दफ्तर की जाये।”

18. Feeling aggrieved from the aforesaid passed by the learned Commissioner, the petitioner has invoked the Writ jurisdiction of this Court under Article 226 of the Constitution of India.

19. The learned counsel appearing on behalf of the petitioner at the very outset stated that he is pressing only the amended prayer No. (v) and confined his argument only to the extent that while passing the impugned order dated 17.02.2022, the learned Appellate Authority (Opposite Party No. 2) has illegally declined to grant the benefit of the

Government Order No. 12/2021/1302/94-S.R.-2-2021-700(01)/2015 (Stamp & Registration Section-2) dated 24.12.2021 to the petitioner.

20. In view of the above, it would be apt to go through the Government Order dated 24.12.2021. For convenience, the relevant portion of the Government Order dated 24.12.2021 is reproduced herein below:

“(1) सभी जनपद स्तरीय स्टाम्प कलेक्टर न्यायालयों एवं मा० सी०सी०आर०ए० के पीठासीन अधिकारी अपने न्यायालय में लम्बित समस्त स्टाम्पवादों/स्टाम्प अपीलों एवं स्टाम्प निगरानियो में पक्षकारों को इस पत्र के साथ संलग्न प्रारूप पर एक नोटिस भेजेंगे, जिससे वाद के सभी सम्बंधित पक्षकारों को इस योजना की सम्यक जानकारी हो जाए।

(2) समाधान योजना के लागू होने के पूर्व तक योजित किसी भी स्टाम्पवाद/स्टाम्प अपील एवं स्टाम्प निगरानी में, यदि पक्षकार सन्दर्भण आख्या में इंगित स्टाम्प कमी की धनराशि को नियमानुसार देय ब्याज के साथ अदा करने का इच्छुक है, तो पक्षकार द्वारा सम्बंधित न्यायालय/मा० सी०सी०आर०ए० में पीठासीन अधिकारी के समक्ष प्रार्थना पत्र प्रस्तुत किया जायेगा।

...

(4) सन्दर्भण आख्या में इंगित स्टाम्प कमी की धनराशि की पुष्टि के उपरान्त सम्बंधित न्यायालय/मा० सी०सी०आर०ए० उक्त नियत तिथि को पक्षकार को पुष्टि की गयी स्टाम्प कमी की धनराशि तथा ब्याज एवं रु० 100/- के टोकन अर्थदण्ड की धनराशि को नियमानुसार एक सप्ताह में कोषागार के मद संख्या – 0030 स्टाम्प एवं रजिस्ट्रेशन में जमा करने हेतु अवगत करायेंगे।

... ..

(6) तत्पश्चात न्यायालय/मा० सी०सी०आर०ए० के पीठासीन अधिकारी स्टाम्प कमी एवं ब्याज धनराशि मयअर्थदण्ड के कोषागार में जमा कराये जाने की पुष्टि के प्रमाण स्वरूप प्रस्तुत रसीद के दृष्टिगत वाद को रु० 100/- के टोकन अर्थदण्ड के साथ निस्तारित कर देंगे।

... ..

(8) यह समाधान योजना 31 मार्च 2022 की अवधि तक प्रभावी रहेगी। किसी भी पक्षकार द्वारा इस अवधि में योजना के प्रभावी रहने की अंतिम तिथि से पूर्व पुष्टि की गयी स्टाम्प कमी की धनराशि नियमानुसार ब्याज एवं रु० 100/- के टोकन अर्थदण्ड की धनराशि के साथ जमा करने पर उसे इसका लाभ प्राप्त होगा।”

21. It is contended on behalf of the petitioner that since the aforesaid Government Order came into existence only w.e.f 24.12.2021 while the Appeal No.1174/2021 was filed on 18.11.2021, therefore, he could not at the stage of filing the Appeal, claim the benefit of the said Government Order and after having come to know of the aforesaid Government Order, she preferred an application dated 23.03.2022 before the

Collector (opposite party No. 3) and sought the benefit of the said Government Order by expressing her willingness to make good the deficiency in the stamp duty along with the applicable interest, excluding the penalty imposed upon her in the light of the said Government Order. It is urged on behalf of the petitioner that the Collector (Opposite Party No.3) did not consider the said application of the petitioner. It was also contended that, despite the Government Order authorizing the Collector and other competent authorities to decide matters relating to stamp deficiency, the authorities have failed to take a decision thereon.

22. Learned counsel for the petitioner contended that, on the date of filing of the appeal i.e., 18.11.2021, the Government Order was not in existence and the same came to be enforced only with effect from 24.12.2021 till 31.03.2022.

23. Learned counsel for the petitioner argued that Government Order dated 24.12.2021 is applicable to all pending cases wherein the parties have moved applications expressing their willingness to deposit the deficient stamp duty and in the pending stamp cases.

24. Learned counsel for the petitioner further contended that earlier appeal having Case no. 00418/2020, under Section 56 (1-A) of the Indian Stamp Act 1899, was not dismissed on merits but on the basis of her own application in this regard.

25. Learned counsel for the petitioner further submitted that the Additional Commissioner, while deciding the subsequent appeal, failed to consider and appreciate the true spirit and scope of the Government Order dated 24.12.2021 and dismissed the appeal in the most mechanical manner.

26. *Per Contra*, learned counsel appearing on behalf of State-respondents have vehemently opposed the present writ petition. His contention is that the appeal having No. 1174 of 2021 filed on 18.11.2021 was not maintainable as there is no provision under the

statute permitting a person to file appeal after the dismissal of the earlier appeal and challenging the same orders.

27. Learned counsel appearing on behalf of State argued that Government Order was issued on 24.12.2021 and at that point of time no case of the petitioner was pending and moreover the entire amount determined by the Collector / District Magistrate (Opposite Party No. 3), stood fully paid, the last installment having been deposited on 28.09.2021. Hence, the petitioner was not entitled to claim the benefit of the said Government Order dated 24.12.2021.

28. Learned counsel for the state further argued that the subsequent appeal preferred by the petitioner, after the earlier appeal had been withdrawn and dismissed as not pressed, carries no legal sanctity and is not maintainable in the eyes of law. Thus, the impugned order dated 17.02.2022 is well-reasoned, legal, valid and warrants no interference by this Court.

29. Heard the learned counsels for the parties and perused the materials available on record.

30. In view of the fact that the petitioner has confined herself to the prayer No. (v) of the Writ petition, therefore, the controversy left to be decided in the present petition is confined as to whether she is entitled to get the benefit of the Government Order dated 24.12.2021.

31. Since, the petitioner herself has admitted the deficiency in the stamp duty and the registration fees and moreover, in the Counter Affidavit dated 18.05.2022 filed by the State- respondent, it has been categorically stated that all payments were complete on 28.09.2021, therefore there would be no purpose to delve into the controversy as to the correctness of the determination of the stamp duty. Accordingly this Court proceeds to advert to the solitary question as to whether the benefit of the Government order dated 24.12.2021 could be extended to the petitioner.

32. The record shows that the petitioner preferred the appeal under Section 56(1-A) of the Indian Stamp Act, 1899 against the said order dated 18.02.2020 which was registered as Case No. 00418/2020. During the pendency of the said appeal, the petitioner moved an application dated 03.03.2021 stating therein that, as per the legal advice, she did not wish to pursue the appeal and wished to deposit the deficient stamp duty. By another application of the same date, the petitioner admitted the deficiency, attributed it to the wrong advice of the sale-deed writer, and prayed for reduction of the penalty and permission to deposit the deficient stamp duty and registration fee. On the basis of the application dated 03.03.2021, the learned Additional Commissioner (Opposite Party No. 2) dismissed the first appeal *vide* order dated 25.03.2021. These facts are not in dispute.

33. Insofar as the contention of learned counsel for the petitioner that earlier appeal was not decided on merits is concerned, this Court finds that the order dated 25.03.2021 itself shows that the appeal was dismissed solely because the appellant did not wish to pursue it. The petitioner has not challenged the order dated 25.03.2021 in the present writ petition, as the prayers are directed only against the orders dated 17.02.2022 and 18.02.2020. It is further evident from the record that the petitioner had already deposited the amounts through five challans by 28.09.2021. There is also nothing on record to indicate any coercion, duress or undue influence in the submission of the said applications.

34. However, the petitioner thereafter filed another appeal on 18.11.2021 (Case No. 1174 of 2021) against the same order dated 18.02.2020. The learned counsel for the State has submitted that there is no provision under the statute permitting the filing of an appeal after the dismissal of the earlier appeal against the same order. The petitioner could also not refer to or show any such provision permitting another appeal after the dismissal of an earlier appeal.

35. In so far as the legality of the subsequent proceedings purporting to be an appeal under Section 56 (1-A) of the Indian Stamp Act, 1899 again

challenging the same very order is concerned, this Court before giving its definite finding feels it appropriate to go through the provisions of Section 56 (1-A) of the Indian Stamp Act, 1899. For ready reference, Section 56 (1-A) is reproduced herein -

“ (1-A) Notwithstanding anything contained in any other provisions of this Act, any person including the Government aggrieved by an order of the collector under Chapter IV, Chapter V or under clause (a) of the first proviso to section 26 may, within sixty days from the date of receipt of such order, prefer an appeal against such order to the Chief Controlling Revenue Authority, who shall, after giving the parties a reasonable opportunity of being heard consider the case and pass such order thereon as he thinks just and proper and the order so passed shall be final.”

36. A conjoint reading of the opening and concluding parts of Section 56(1-A) of the Indian Stamp Act, 1899 makes the legislative scheme clear. The provision, beginning with the *non obstante* clause and concluding in unequivocal terms that “the order so passed shall be final” does not contemplate any subsequent appeal.

37. The Hon’ble Apex Court in the case of **Vijay Prakash D. Mehta versus Collector of Customs (Preventive, Bombay)** reported in (1988) 4 SCC 402 has held that:

“9. Right to appeal is neither an absolute right nor an ingredient of natural justice the principles of which must be followed in all judicial and quasi-judicial adjudications. The right to appeal is a statutory right and it can be circumscribed by the conditions in the grant.”

38. Reference could be made to decision passed by the Hon’ble Apex Court in the case of **M. Ramnarain Pvt. Ltd. and Another versus State Trading Corporation of India Ltd** reported in (1983) 3 SCC 75, where the Hon’ble Court has been pleased to hold as under:

“29. The withdrawal of the earlier Appeal No. 36 of 1981 without obtaining the leave of court does not in the facts and circumstances of this case, affect in any way the maintainability of the present appeal. We have already held that the earlier Appeal No. 36 of 1981 was an incompetent appeal and the withdrawal of the incompetent appeal in the instant case did not have prejudice, in any way, the right of the defendant-appellant to file a proper appeal against the decree.”

39. Further reference could be made to the case of **Govt. of NCT of Delhi & Ors. versus Mool Chand Sharma** reported in **2013 SCC OnLine Del 794**, wherein it was held as under:

“6..... Therefore, once the appeal preferred against the order dated 9.10.2002 was withdrawn by the appellants on 10.1.2003, without obtaining liberty to file a fresh appeal against the said order, the second appeal challenging the very same order would not be maintainable.

.....

13.....It was held that withdrawal of the earlier appeal which was incompetent and was not an appeal in the eyes of law, did not in any way affect the validity of the second appeal.

However, in the case before this Court, it is not the case of any one that the appeal which was withdrawn on 10.1.2003 was a defective or incompetent appeal. Therefore, this judgment would not apply to the case before this Court.”

40. The Hon’ble Supreme Court in the case of **Asia Industries Private Ltd. versus S.B. Sarup Singh** reported in **1965 SCC OnLine SC 366**, has held as under:

“11. The expression "final" prima facie connotes that an order passed on appeal under the Act is conclusive and no further appeal lies against it. It is true that the expression "final" may have a restrictive meaning in other contexts, but in Section 43 of the Act such a restrictive meaning cannot be given, for Chapter VI of the Act provides for a hierarchy of tribunals for deciding disputes arising thereunder. The Act is a self - contained one and the intention of the Legislature was to provide an exhaustive code for disposing of the appeals arising under the Act. The opening words of Section 43 of the Act "save as otherwise expressly provided in this Act" emphasize the fact that the finality of the order cannot be questioned by resorting to something outside the Act.....”

41. It is well settled in law that when a right is granted under a Statute, further right of appeal must receive such construction as may emanate from the plain meaning of the words used by it.

42. The right of appeal being purely a creature of statute, in the absence of any provision permitting a subsequent appeal assailing the same order, the subsequent appeal preferred by the petitioner could not be treated as a validly instituted proceeding as the the Indian Stamp Act, 1899 does not contemplate the institution of a subsequent appeal once the appeal under Section 56 (1-A) of the Indian Stamp Act, 1899 has been dismissed.

43. In view of the above it is safely observed that the subsequent Appeal No.1174/2021 filed under section 56(1-A) of the Indian Stamp Act, 1899 was not a legally instituted Appeal and was, rather *non-est*, more particularly when no liberty was granted or obtained for filing an another appeal afresh.

44. In view of the facts of the present case, since the petitioner by the applications dated 03.03.2021, had categorically stated that she did not wish to pursue the first appeal, admitted the deficiency in stamp duty, expressed her willingness to deposit the same, and thereafter actually deposited the amount in five installments. Having done so, the petitioner could not have reopened the very same controversy by filing another appeal subsequently. Therefore, the learned Additional Commissioner, *vide* the impugned order dated 17.02.2022, has rightly held that another appeal, against the same order is not maintainable.

45. Now, the Court comes to the Government Order dated 24.12.2021, upon which the entire case of the petitioner rests. A perusal of the Government Order dated 24.12.2021, reveals that the Scheme contemplated therein shall apply to the pending stamp cases / stamp appeals / stamp revisions instituted (योजित) prior to the enforcement of the same.

46. There is no quarrel with the proposition that the Government Order applies to pending cases. Whereas, in the present case the proceedings before the Collector / District Magistrate had already been concluded *vide* order dated 18.02.2020, and the petitioner's appeal against the same stood dismissed on 25.03.2021 i.e., prior to the issuance of the Government Order dated 24.12.2021. The only proceeding that is said to be pending on 24.12.2021 was a subsequently filed appeal which for the reasons recorded herein above, was not a validly instituted proceeding in the eyes of law. Thus, the benefit of the scheme under the Government Order dated 24.12.2021 was not available to the petitioner.

47. In so far as the contention of the learned counsel for the petitioner that the application dated 23.03.2022 pending before the Collector / District Magistrate (Opposite Party No. 3), has not been considered, and that the benefit of the Government Order dated 24.12.2021 has not been extended to her is concerned, the same is bereft of merit having no substance as there was no validly instituted stamp case / stamp appeal / stamp revision by or against the petitioner pending at the time of enforcement of the Government order dated 24.12.2021.

48. In view of the foregoing discussion, this Court is of the considered view that the order dated 17.02.2022 passed by the learned Additional Commissioner, Devi Patan Mandal, Gonda (Opposite Party No. 2) in Appeal having Case No. 1174 of 2021 and the order dated 18.02.2020 passed by the learned Collector / District Magistrate, Gonda (Opposite Party No. 3) in Case No. 00825/2019, do not warrant any interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.

49. The writ petition is accordingly **dismissed**. No order as to costs.

50. Before parting with, this Court appreciates the sincere assistance and research by Mr. Rajat Srivastava, Research Associate and Ms. Mizana Kabeer, Law Intern in finding out the relevant case laws applicable in the present case.

(Syed Qamar Hasan Rizvi,J.)

October 05, 2026

Manoj K.