[3488]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT APPEAL NO: 641 OF 2026

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against the Order dated. 04-10-2024, in WP.No. 21723 of 2023. on the file of the High Court.

Between:

Amer Ali Khan, s/o Zahed Ali Khan, aged About49 years, occ. News Editor, r/o H.No.4-11-55, M.M.Pahadi, Rajendranagar R.R.District, rep. by his special Power of Attorney Mr. Mohammed Ghouse Ifthaqri s/o Khaja Miya, agd 57 years,occ. Business r/o H.No. 17-1-30/B/D, R.C.Nagar, Madannapet, Hyderabad.

...APPELLANT (PETITIONER)

AND

1. The State of Telangana, rep. by its Principal Secretary, Revenue (Registration and Stamps) Department, Secretariat, Hyderabad.
2. The Commissioner and Inspector General, Registration and Stamps, Moamjahi Market Nampally, Hyderabad.
3. The District Registrar, Hyderabad (South) Registration and Stamps,Hyderabad.
4. The Joint Sub-Registrar-II, Hyderabad (South) Banjara Hills, Hyderabad.

...RESPONDENTS /RESPONDENTS

I.A. NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 462 days in representing the above W.A.Sr.No. 2038 of 2025 dt. 10-1-2025, in the interests of justice

Counsel for the Appellant: Ms. K JAYASREE

Counsel for the Respondents: SRI MURALIDHAR REDDY KARATAM GP FOR STAMPS AND REGISTRATION

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.641 of 2026

DATE: 29.07.2026

Between:

Amer Ali Khan

....Appellant

And

The State of Telangana, Rep. by its Principal Secretary, Revenue (Registration & Stamps) Department and 3 others

....Respondents

JUDGMENT

Heard Ms. K.Jayasree, learned counsel for the appellant; Sri Muralidhar Reddy Katram, learned Government Pleader for Revenue (Stamps and Registration) for the respondents and perused the record.

2. This writ appeal is preferred under Clause 15 of the Letters Patent, against the order dated 04.10.2024 passed by the learned Single judge in W.P.No.21723 of 2023. By the said order, the learned Single Judge dismissed the writ petition filed by the appellant herein.

History, Evolution and Object of the Indian Stamp Act, 1899

3. Before examining the rival submissions on the interpretation of Section 49 of the Indian Stamp Act, 1899 (for short '1899 Act'), it would be apposite to advert to the historical evolution, legislative scheme and underlying object of the enactment. The controversy involved in the present appeal cannot be resolved by reading Section 49 of 1899 Act in isolation. The provision has to be understood in the backdrop and the context of the overall statutory framework and the purpose sought to be achieved by the legislation.

4. The levy of stamp duty in India has its origin in the fiscal measures introduced during the British period. The first comprehensive enactment regulating stamp duties was the Stamp Act of 1869, which was subsequently replaced by the 1899 Act. The 1899 Act was enacted as a consolidating statute to amend and unify the law relating to stamp duties throughout British India. Subject to subsequent amendments by Parliament and various State Legislatures, it continues to constitute the principal legislation governing the levy and collection of stamp duty on instruments.

5. The Indian Stamp Act is essentially a fiscal legislation. Its dominant object is to secure revenue to the State by imposing a duty upon specified instruments recording transactions having legal and commercial significance. Section 3, being the charging provision, levies stamp duty on instruments specified in the Schedule to the Act. Therefore, the incidence of the levy is on the instrument and the quantum of the levy is based on the transaction embodied therein.

The object of the statute is to generate public revenue through instruments evidencing legally recognised transactions.

6. However, equally significant is the fact that the legislative scheme does not proceed on the premise that every payment of stamp duty is absolute, irrevocable or incapable of restitution. On the contrary, the Legislature itself incorporated an elaborate mechanism under Chapter V (Sections 49 to 55), captioned "Allowances for Stamps in Certain Cases", recognising that circumstances may arise where the purpose for which stamp duty was paid is not ultimately fulfilled. These provisions enable the competent authority, subject to the prescribed conditions, to grant allowance or refund where the stamp has become "spoiled" or has otherwise ceased to serve the purpose for which it was purchased or used.

7. The significance of these provisions has also been noticed by the Law Commission of India in its 67th Report on the 1899 Act, wherein it observed that the allowance provisions are intended to afford relief in cases where expenditure has been incurred on stamps but the instrument has, by reason of the circumstances enumerated in the Act, become useless for the purpose for which it was intended. The legislative recognition of such situations demonstrates that the Act itself does not regard the levy of stamp duty as an inexorable exaction divorced from the efficacy of the instrument or the purpose sought to be achieved thereby.

8. The incorporation of Chapter V into the statutory framework is, therefore, of considerable significance. It embodies the legislative acknowledgment that while stamp duty is undoubtedly a fiscal impost, the State is not entitled to retain such levy in every conceivable situation irrespective of subsequent events. Where the instrument fails to achieve the object for which it was brought into existence or the transaction contemplated thereby cannot be completed for reasons recognised by law, the Act itself contemplates relief by way of allowance or refund. Thus the statutory provisions reflect a legislative balance between the State's legitimate interest in protecting public revenue and the equally important principle that fiscal legislation should not operate so as to impose an unwarranted burden upon a citizen where the very foundation for retaining the levy has ceased to exist.

9. It is in the backdrop of this legislative history and statutory scheme that the scope and ambit of Section 49 of the 1899 Act falls for consideration in the present appeal. The question before this Court is not merely whether the document in question was executed and presented for registration, but whether, upon the admitted refusal of registration and consequent failure of the transaction, the State can retain the entire stamp duty notwithstanding the absence of any completed conveyance of the transaction intended. The answer to that question must necessarily be found by construing the provisions of the Act in a manner consistent with its object, its legislative scheme and the constitutional principles governing State action.

Factual matrix

10. The appellant, Sri Amer Ali Khan, represented by his Special Power of Attorney (SPA) Holder, Sri Mohammed Ghouse Ifthaqri, entered into a Sale Deed dated 31.08.2021 with Smt. Khairunnisa Begum, wife of late Syed Yousuf Akhtar, in respect of an open plot of land admeasuring 3,630 Sq yards situated in Sy Nos.599, 600, 601 and 611, bearing H.No.8-1 (corresponding to Old No.320/1), at Shaikpet, Hyderabad, with the intention of acquiring title to the said property through a duly registered conveyance.

11. For completion of the proposed transaction, the appellant approached the Joint Sub-Registrar-II, Hyderabad (South), Banjara Hills, the 4th respondent herein, to ascertain the stamp duty, transfer duty, registration fee and other charges payable in respect of the proposed sale deed. Pursuant thereto, the requisite particulars were furnished by the registering authority. Accordingly, the appellant paid a total sum of Rs.65,37,500/- towards stamp duty and transfer duty through two e-challans, namely, Challan No.920MPRO50921 dated 05.09.2021 for Rs.10,500/- and Challan No.637RLR130921 dated 13.09.2021 for Rs.65,27,000/-. Thereafter, the Sale Deed was presented for registration on 15.09.2021, whereupon it was admitted and kept pending as 'Pending Document No.P-99 of 2021' on the file of the 4th respondent.

12. Subsequently, by Refusal Order No.1 of 2021 dated 14.10.2021, the 4th respondent declined to register the document on the ground that the requirements under the Registration Act, 1908 (for short '1908 Act') had not been complied with. The specific reasons for refusal, as recorded in the said order, pertained to the alleged deficiencies and non-compliance with the requirements of the 1908 Act, on the basis of which the registering authority declined registration of the document.

13. Upon receipt of the refusal order, the appellant did not pursue the remedy of challenging the said order. Instead, appellant chose to withdraw the proposal for registration and submitted a representation dated 25.11.2021 to the 3rd and 4th respondents seeking refund of the stamp duty, transfer duty, registration fee and other charges paid in connection with Pending Document No.P-99 of 2021. It is the Appellant's case that the said representation was submitted within the period prescribed under Section 50 of the 1899 Act.

14. As no orders were passed on the aforesaid representation, the appellant approached this Court by filing W.P.No.36625 of 2021, seeking a direction upon the respondents to consider his representation for refund of the amount paid towards the proposed registration. By order dated 24.08.2022, the learned Single Judge, without expressing any opinion on the merits, disposed of the writ petition directing the District Registrar, Hyderabad (South), to consider and dispose of the appellant's representation dated 25.11.2021 strictly in accordance with law, preferably within eight weeks from the date of receipt of a copy of the order.

15. Pursuant to the aforesaid direction, the 3rd respondent passed Proceedings No.Refunds/8087/2021 dated 26.10.2022, whereby the request for refund was considered component-wise. While directing refund of the registration fee and user charges on the ground that the document had not been registered, the 3rd respondent observed that refund of mutation charges would be considered only after issuance of appropriate Government guidelines. However, insofar as the stamp duty and transfer duty amounting to Rs.65,37,500/- were concerned, the request was rejected on the ground that the duties paid through the respective challans had already been utilised in respect of the subject document under the provisions of the 1899 Act and, therefore, the purpose for which such duties were paid stood served. The proceedings further disclose that the said decision was taken based upon the clarification issued by the Commissioner and Inspector General, Registration and Stamps, *vide* Memo No.S2/9935/2021 dated 21.10.2022.

16. Aggrieved by the rejection of his claim for refund of the stamp duty and transfer duty, the appellant instituted W.P.No.21723 of 2023, questioning the legality of the proceedings dated 26.10.2022. The principal relief sought in the writ petition was to declare the impugned proceedings insofar as they declined refund of the stamp duty and transfer duty as illegal and arbitrary and to consequently direct the respondents to refund the said amount in accordance with law.

17. Before the learned Single Judge, the appellant contended, *inter alia*, that once the proposed conveyance failed on account of refusal of registration, the very purpose for which the stamp duty had been paid stood frustrated, entitling him to refund thereof.

18. The respondents opposed the writ petition contending that the liability to pay stamp duty arises under the 1899 Act, upon execution of the instrument and is distinct from the process of registration governed by the 1908 Act. It was their specific stand that once the document had been executed and presented for registration, the stamp duty stood utilised and no refund could be claimed merely because registration was subsequently refused.

19. Upon consideration of the said rival submissions, the learned Single Judge, by order dated 04.10.2024, dismissed W.P.No.21723 of 2023. The learned Single Judge held that the provisions of the 1899 Act and the 1908 Act operate in distinct fields and that refusal of registration does not, by itself, entitle a party to claim refund of stamp duty. It was further held that Section 49 of the 1899 Act deals only with allowances in respect of spoiled stamps and does not contemplate refund in the case of a document whose registration has been refused. The decisions relied upon by the appellant were distinguished on facts, and the proceedings of the District Registrar were upheld.

20. Aggrieved thereby, the appellant has preferred the present Writ Appeal.

Submissions on behalf of the appellant

21. Learned counsel appearing for the appellant, assailed the impugned order and has advanced the following submissions:

i) That the stamp duty and transfer duty were paid solely for the purpose of effecting registration of the Sale Deed and the consequent transfer of title in favour of the appellant. It was contended that, since registration of the document was refused by the registering authority and the appellant thereafter withdrew the intent to proceed with the transaction, the instrument never attained legal efficacy and the intended conveyance never came into existence. According to the learned counsel, mere presentation of the document before the registering authority cannot be equated with completion of the transaction or transfer of title, upon which the liability to pay stamp duty would arise.

ii) That the appellant's case squarely falls within the scope and ambit of Section 49(d) of the 1899 Act, particularly clauses (3) and (5) thereof. It was submitted that Section 49(d)(3) contemplates grant of allowance where an instrument cannot be completed so as to effect the intended transaction, while Section 49(d)(5) provides for allowance where an instrument totally fails of its intended purpose. Since the Sale Deed could not be registered and the intended conveyance consequently failed, it was argued that the instrument could neither be completed nor achieve the purpose for which it was executed, thereby entitling the appellant to claim refund under the said provision.

iii) That the learned Single Judge erred in holding that Section 49 is confined only to cases of 'spoiled stamps' and does not extend to a document whose registration has been refused. It was argued that the expression 'spoiled stamps' employed in Section 49 is not to be construed in a narrow or literal sense but in the broader statutory context of stamps becoming incapable of serving the purpose for which they were intended. According to the learned counsel, where a document fails to culminate in a valid conveyance on account of refusal of registration, the stamp duty paid thereon becomes equally incapable of serving its intended purpose and would therefore fall within the legislative scheme of Section 49 of the 1899 Act.

iv) That the impugned proceedings dated 26.10.2022 rest solely upon the clarification issued by the 2nd respondent in Memo No.S2/9935/2021 dated 21.10.2022, wherein it was stated that stamp duty is not refundable in respect of refused documents. It was submitted that the said clarification is merely an executive or administrative instruction without any statutory force. It is contended that where the Indian Stamp Act, 1899 permits refund in a given case, the benefit conferred by the statute cannot be denied by relying upon an internal departmental circular.

v) That the action of the respondents in refunding the registration fee and user charges while simultaneously refusing refund of the stamp duty and transfer duty is arbitrary, discriminatory and violative of Article 14 of the Constitution of India. It was contended that, having accepted that no registration had taken place and consequently directing refund of the registration fee and user charges, the respondents could not adopt a different standard insofar as the stamp duty and transfer duty were concerned.

vi) That retention of an amount exceeding Rs.65 lakhs, despite the admitted failure of the intended conveyance, lacks any rational basis and results in arbitrary deprivation of the appellant's money. It was submitted that the appellant has neither acquired title to the property nor secured registration of the document, yet has been denied refund of the substantial amount paid towards stamp duty and transfer duty.

vii) That the appellant paid the requisite stamp duty and transfer duty *bona fide* on the basis of the particulars furnished by the registering authority for completing the proposed transaction. Since the transaction ultimately failed and no conveyance came into existence, the State is not entitled to retain the amount collected towards stamp duty.

viii) That the appellant's representation seeking refund was made on 25.11.2021, well within the period of limitation prescribed under Section 50 of the 1899 Act. It was therefore contended that the claim for refund was maintainable and could not have been rejected on the ground of limitation.

ix) The learned counsel in support of his case has placed reliance upon the following decisions hereunder:

(i) ***Committee-GFL v. Libra Buildtech (P) Ltd. and Others***[1] to contend that where the transaction contemplated by the

[1] (2015) 16 SCC 31

parties fails and the purpose for which stamp duty was paid remains unfulfilled, the party paying such duty is entitled to seek refund thereof.

(ii) ***State of Maharashtra and Others v. National Organic Chemical Industries Limited***[2] in support of the contention that stamp duty paid in circumstances where the statutory purpose cannot be achieved is liable to be refunded in accordance with law.

Submissions on behalf of the respondents

22. *Per contra,* learned Government Pleader (Stamps and Registration) appearing for the respondents advanced the following submissions:

i) That the liability to pay stamp duty arises upon the execution of the instrument and that the object of the levy stands fulfilled once the instrument is duly executed, stamped and presented before the registering authority. It was contended that stamp duty is a fiscal levy on the instrument itself and is not dependent upon the subsequent act of registration. According to the respondents, the appellant had already utilized the stamp duty by affixing the requisite stamps and presenting the Sale Deed for registration, and therefore, it cannot be contended that the purpose for which the duty was paid

[2] MANU/SC/0280/2024

remained unfulfilled merely because registration was subsequently refused.

ii) That the 1899 Act, and the 1908 Act, are two distinct and independent enactments operating in separate fields. It was contended that while the 1899 Act governs the levy and collection of stamp duty on instruments, the 1908 Act regulates the procedure for registration of documents. According to the respondents, refusal of registration under the provisions of the 1908 Act does not affect the levy or collection of stamp duty under the 1899 Act. Since the stamp duty was validly levied upon execution of the instrument, the subsequent refusal of registration does not, by itself, confer any right upon the appellant to seek refund of the duty already paid.

iii) That Chapter V of the 1899 Act, dealing with 'Allowances for Stamps in Certain Cases', exhaustively enumerates the circumstances in which refund or allowance can be granted. Particular reliance was placed upon Section 49 of the Act to contend that the Legislature has consciously specified the situations in which allowance is permissible. It was argued that refusal of registration on account of non-compliance with the provisions of the 1908 Act, does not find place amongst the contingencies enumerated under Section 49, particularly clause (d) thereof. It was further submitted that transfer duty forms an integral component of stamp duty and both stand on the same footing.

iv) That the appellant did not challenge Refusal Order No.1 of 2021 before the competent forum under the 1908 Act. Instead, after receipt of the order of refusal, the appellant voluntarily chose to withdraw the proposal for registration and sought refund of the stamp duty. It was contended that the failure of the proposed transaction was, therefore, attributable to the appellant's own decision not to pursue the statutory remedy available against the order of refusal. Consequently, the appellant cannot attribute the failure of the transaction to the respondents and seek refund of the stamp duty on that basis.

v) That the provisions of the 1899 Act constitute an important source of public revenue and are enacted in the larger fiscal interest of the State. It was contended that acceptance of the appellant's contention would have wide-ranging fiscal implications and may result in numerous claims for refund of stamp duty in cases where parties, after executing and presenting documents for registration, subsequently choose not to proceed with the transaction. According to the respondents, such an interpretation would adversely affect public revenue and run contrary to the scheme and object of the 1899 Act.

vi) The learned Assistant Government Pleader in support of his case has relied upon the following decisions:

i. Citius Real Estate (P) Limited v. Union of India and another[3]

ii. Mulakh Raj Dua v. State Govt. N.C.T. of Delhi and another[4]

iii. P.Badri Premnath v. Commissioner & Inspector General of Registration & Stamps and others[5]

iv. Dr.V.Chandra Sekhar v. The Chief Controlling Revenue Authority and Commissioner, Inspector General of Registration and Stamps and two others[6]

23. We have taken note of the respective contentions urged by the learned counsel for both sides.

Consideration by this Court

24. The principal question that falls for consideration is whether the stamp duty and transfer duty paid by the appellant can be said to have been 'utilized' or that the purpose for which such duty was paid stood achieved merely because the Sale Deed was executed and presented for registration, notwithstanding the subsequent refusal of registration. The learned Single Judge proceeded on the premise that, once the instrument was executed and presented before the registering authority, the purpose of the stamp duty stood served. In

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[3] 2023 SCC OnLine Del 7514
[4] 2025 SCC OnLine Del 9042
[5] 2024 SCC OnLine TS 4017
[6] (2015) 3 ALD 279

our considered opinion, such an approach overlooks the distinction between the taxable event attracting stamp duty and the object for which the duty is paid in the case of a conveyance.

25. It is pertinent to note that the payment of stamp duty in the case of a Sale Deed, is not an end in itself but forms an integral part of the statutory process by which a conveyance is intended to be completed through registration. The duty is paid to facilitate and give legal effect to the intended transfer embodied in the instrument. Mere execution or presentation of the document cannot, by itself, be equated with completion of the intended conveyance. Where registration is refused and the proposed transaction consequently fails, the object for which the stamp duty was paid remains unfulfilled. To hold otherwise would amount to treating the mere presentation of the instrument as equivalent to the completion of the transaction, a construction which neither accords with the scheme of the 1899 Act, nor with the legal consequences flowing from refusal of registration.

26. At this juncture, it is apposite to extract Section 49 of the 1899 Act hereunder for ready reference:

> ***"49. Allowance for spoiled stamps.—*** *Subject to such rules as may be made by the State Government as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases herein after mentioned, namely:—*
>
> *(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means*

rendered unfit for the purpose intended before any instrument written thereon is executed by any person:

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto:

(c) in the case of bills of exchange payable otherwise than on demand or promissory notes:

(1) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance:

Provided that the paper on which any such stamp is impressed, does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon:

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands:

(3) the stamp used or intended to be used for any such bill of exchange or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee:

Provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, or note.

(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:

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended:

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed:

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value:

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value:

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable, has been paid is an impressed stamp within the meaning of this section.

A plain reading of the said provision, particularly clause (d) provides for allowance in respect of stamps used for an instrument executed by any party thereto which, *inter alia,* "cannot be completed so as to effect the intended transaction" or "totally fails of the intended purpose". Therefore, the scope and applicability of these provisions fall for consideration in the present case.

27. In the case on hand, the Sale Deed was undoubtedly executed and presented for registration. However, registration of the document was refused by the registering authority and, consequently, the proposed conveyance never attained legal efficacy. The intended transaction could not be completed and the object for which it was executed remained unfulfilled. *Prima facie*, such a situation, in our view, bears a direct nexus to the contingencies contemplated under clauses (3) and (5) of Section 49(d).

28. It is pertinent to note that the expression "spoiled stamps", occurring in Chapter V of the Act, cannot be construed in a narrow or literal sense divorced from the statutory scheme. The legislative intent underlying Sections 49 to 54 is to provide relief where, for any of the contingencies specified therein, the instrument is rendered incapable of achieving the purpose for which the stamp duty was incurred. The allowance provisions thus recognise that, notwithstanding payment of stamp duty, circumstances may arise where the intended transaction cannot be brought to fruition.

29. While there can be no quarrel with the proposition that two enactments i.e., the 1899 Act and 1908 Act operate in distinct fields, in the context of a conveyance of immovable property, the two statutes operate in a complementary manner. While the 1899 Act governs the fiscal incidence on the instrument, the 1908 Act governs the legal efficacy of the conveyance. A Sale Deed intended to transfer immovable property must satisfy the requirements of both enactments. If the registration is refused, the intended conveyance remains incomplete and title does not pass in the manner contemplated by law. It is in this context that the contention of the respondents that the stamp duty stood "utilized" and that the purpose of the levy stood "served" merely because the document was presented for registration requires careful scrutiny. Mere execution and presentation of an instrument cannot, by themselves, be equated with completion of the intended transaction. Where the conveyance itself fails on account of refusal of registration, the question whether the instrument has "failed of its intended purpose" must necessarily be examined in the light of Section 49(d) and the legislative object underlying Chapter V of the Act. To hold that the duty stands irrevocably consumed merely upon presentation of the instrument would substantially dilute the remedial scheme embodied in the allowance provisions. A distinct legal scenario arises where an instrument, execution and registration fails to convey effective title and a refund of stamp duty is sought, in such a situation, we are not required to address that hypothesis here, as it is not the controversy involved in the present case.

30. In the instant case, the impugned decision of the 3rd respondent is founded upon the clarification issued by the 2nd respondent, which is in the nature of an executive or administrative instruction and does not have statutory force. It is a settled principle of law that executive instructions cannot override, amend or supplant the provisions of a statute. The 1899 Act, by virtue of Sections 49 and 50, provides a statutory mechanism for seeking allowance or refund of stamp duty in the contingencies contemplated therein. Consequently, an administrative circular cannot impose an absolute prohibition on refund in situations not expressly excluded by the Act. Therefore, the memo issued by the 2nd respondent cannot override or curtail the appellant's statutory claim for allowance under Section 49.

31. Equally significant is the stand adopted by the respondents in the impugned proceedings. While directing refund of the registration fee and user charges, the 3rd respondent expressly recorded that the "subject document was refused without registration". The respondents have thus acknowledged that the intended registration did not materialise and that the services, for which the registration fee and user charges were collected were not rendered. Once such a position is accepted, the refusal to refund the stamp duty and transfer duty on the premise that the duties stood "utilized" or that their purpose had been "served" cannot be sustained without reference to the statutory scheme of the 1899 Act. Such differential treatment, in the absence of any intelligible basis under the Act, is arbitrary and falls foul of the mandate of Article 14 of the Constitution of India.

32. It is also to be noted that the retention of the sum of Rs.65,37,500/- by the State, despite the admitted failure of the intended conveyance and without any registration of the instrument and the transfer of title in favour of the appellant, results in the State retaining monies for a transaction that never attained legal efficacy.

Such retention, in the facts and circumstances of the present case, amounts to unjust enrichment and cannot be sustained in law.

33. The Hon'ble Supreme Court in ***Committee-GFL v. Libra Buildtech Private Limited & Others*** (supra 1) observed that the State, while dealing with claims of its citizens, ought not to rely upon mere technicalities and is expected to act as an honest litigant. The respondents' refusal to consider the appellant's claim solely on the basis that the stamp duty stood "utilized" upon presentation of the document, notwithstanding the admitted refusal of registration, does not accord with the statutory scheme or the principles of fairness that must inform State action under Article 14 of the Constitution. The doctrine of restitution, which seeks to restore a party to the position in which it stood before the failed transaction, equally supports the appellant's claim for refund.

34. The decisions relied upon by the learned Government Pleader for Revenue are clearly distinguishable and do not apply to the facts and circumstances of the present case, for the following reasons:

i. In ***Citius Real Estate (P) Limited*** (supra 3) , the writ petition (civil) was filed *inter alia* challenging Section 54 of the Indian Stamp Act, 1899 to the extent provided for deduction of 10% of the Stamp duty as *ultra vires* Article 265 and 300A of the Constitution of India. In the present case, the controversy that is involved is whether the appellant is entitled for the refund of stamp duty upon a *bona fide* failure to proceed with the intended transaction.

ii. In ***Mulakh Raj Dua*** (supra 4), the learned Single Judge allowed the refund of the value of the stamps purchased which were not used for executing instrument in question. The subject matter in the said case was deduction of 10% amount by the revenue authorities which was sought to be declared as unlawful. The facts and circumstances of the cited cases are different from the case on hand.

iii. ***P.Badri Premnath*** (supra 5), deals with the return of excess stamp duty after a sale deed was executed and registered in respect of an immovable property. Upon subsequent verification, when it was found upon actual measurement that the extent was lesser than the extent stated in the initially registered instrument, a rectification deed was executed and a refund was sought of the duty corresponding to the reduced extent. The refund was refused by the revenue authorities and the High Court held that the writ petitioner was not entitled to claim the refund of the stamp duty in respect of reduced extent inasmuch as the document was executed and registered. In contrast, in the instance case at hand, the document was not registered and the proposed sale transaction did not fructify.

iv. In ***Dr.V.Chandra Sekhar*** (supra 6), the petitioner had engrossed the document on the entire amount of stamp duty, where the document was to be engrossed on stamps in respect of certain portion and a certain portion of the sum was to be paid by way of cash. In such a case, the High Court was pleased to hold that there was no provision in the statute for the refund of portion of the duty amount. It was held that the petitioner was not entitled for the money spent in view of absence of any provision of the statute enabling such a refund. In the present case, when the document was presented for registration, the revenue authorities has refused registration of the same. The transaction intended in the instrument had failed and was never acted upon nor completed. Further, the application for refund was made within time.

35. The respondents' contention that since the appellant voluntarily withdrew the proposal for registration, he is disentitled to claim refund of the stamp duty, does not merit consideration. The withdrawal of the proposal was subsequent to the passing of Refusal Order No.1 of 2021, whereby the registering authority had already declined registration of the document. The refusal order had effectively brought the registration proceedings to an end. The mere fact that the appellant did not challenge the order of refusal and instead chose to withdraw the proposal cannot, by itself, defeat a claim which otherwise arises under the provisions of the 1899 Act. The right to seek allowance or refund, if otherwise available under the statute, cannot be made to depend upon whether the order of refusal was challenged in appeal or accepted by the party concerned. The material consideration is that the intended conveyance never came into existence and the transaction failed to attain legal efficacy. Thus, the appellant's decision not to pursue further proceedings against the refusal order cannot operate as a bar to his claim for refund.

36. Further, the appellant submitted his representation seeking refund on 25.11.2021. The Sale Deed was executed on 31.08.2021, presented for registration on 15.09.2021, and its registration was refused by Refusal Order No.1 of 2021 dated 14.10.2021. The application for refund was thus made well within the period of six months prescribed under Section 50 of the 1899 Act. Therefore, the appellant's claim cannot be said to be barred by limitation.

Conclusion

37. For the foregoing reasons, this Court is of the considered view that the impugned order dated 04.10.2024 passed by the learned Single Judge in W.P.No.21723 of 2023 upholding the action of the respondent authorities in refusing refund of the stamp duty and transfer duty cannot be sustained. The refusal to grant refund solely on the basis of an executive instruction, despite the admitted failure of the intended conveyance, is legally unsustainable. Therefore, the order dated 04.10.2024 passed by the learned Single Judge warrants interference.

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38. Accordingly, the Writ Appeal is allowed. The order dated 04.10.2024 passed by the learned Single Judge in W.P. No.21723 of 2023 is set aside. Consequently, the proceedings of the 3rd respondent *vide* Proceedings No.Refunds/8087/2021 dated 26.10.2022, insofar as they reject the appellant's claim for refund of the stamp duty and transfer duty amounting to Rs.65,37,500/- (Rupees Sixty-Five Lakhs Thirty-Seven Thousand Five Hundred Only), are hereby quashed and set aside. The respondents are directed to process and refund to the appellant the stamp duty and transfer duty amounting to Rs.65,37,500/- (Rupees Sixty-Five Lakhs Thirty-Seven Thousand Five Hundred Only), subject to such statutory deductions, if any, as are permissible under the provisions of the Indian Stamp Act, 1899 and the Rules framed thereunder, within a period of eight (8) weeks from the date of receipt of a copy of this judgment.

As a sequel, miscellaneous petitions, pending if any, stand closed. No costs.

SD/- K.SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

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HIGH COURT

DATED: 29/07/2026

JUDGMENT

WA.No.641 of 2026

HIGH COURT FOR THE STATE OF TELANGANA
14 AUG 2026
DESPATCHED

ALLOWING THE WRIT APPEAL WITHOUT COSTS

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12/8/26