IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 8746 OF 2015

Shivprakash Singh .. Petitioner
vs.
State of Maharashtra & Ors. .. Respondents

Mr. Harshad Inamdar for Petitioner.
Mr. S. D. Rayrikar - AGP for Respondent Nos. 1 to 3.

CORAM : M. S. SONAK, J.
DATE: 21 DECEMBER 2015

P.C. :-

1] Rule. With the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.

2] The challenge in this petition is to the order dated 2 February 2015 made by the Chief Controlling Revenue Authority, Maharashtra State, Pune, holding that the petitioner's appeal under Section 53 (1A) of the Maharashtra Stamp Act (said Act) is not maintainable.

3] Although, the impugned order is not clear, it appears that the petitioner has been non-suited on two grounds :

(A) that the appeal was not filed at the appropriate time; and

(B) that the parties have already paid excess stamp duty.

4] As noted earlier, the impugned order is not clear as to whether the same has been dismissed on the ground of limitation. Therefore, the issue of limitation is kept open. However, the appeal could not have been held as not maintainable, merely because the petitioner may have paid the additional stamp duty, without prejudice to his rights and contentions in the appeal. It is always permissible for the parties to pay the additional stamp duty amount without prejudice to their rights and contentions and thereafter challenge the demand for payment of additional stamp duty.

5] In view of the aforesaid, the impugned order is set aside and the matter is remanded to the Chief Controlling Revenue Authority, Maharashtra State, Pune, for fresh consideration of the petitioner's appeal. It is made clear that all contentions of all parties are left open. The Appellate Authority to endeavour to dispose of the appeal as expeditiously as possible and in any case within a period of four months from the date of production of authenticated copy of this order.

6] The petitioner to appear before the concerned Chief Controlling Revenue Authority on 8 January 2016 at 3.00 p.m. and produce authenticated copy of this order.

7] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

8] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka