

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8938 OF 2017

Prachi Mines & Anr. .. Petitioners
vs.
State of Maharashtra & Ors. .. Respondents

Mr. Nilesh P. Parekh for Petitioners.
Mr. S. D. Rayrikar -AGP for Respondent Nos. 1 to 3.

CORAM : M. S. SONAK, J.
DATE: 08 SEPTEMBER 2017

P.C :

1] The challenge in this petition is to the order dated 6th January 2017 made by the Collector of Stamps, Raigad, under Section 31 of the Maharashtra Stamp Act, 1958. The order itself states that in case the petitioners does not agree with the petitioners, then, the petitioners, can file an appeal within sixty days before the prescribed appellate authorities.

2] Mr. Rayrikar, the learned AGP submits that the petitioners have alternate remedy in terms of section 53(1A) of the Stamp Act.

3] Section 53(1A) of the Stamp Act, reads thus :

"53 (A1) Any person aggrieved by an order of the Collector under Chapter III, Chapter IV, Chapter V and under clause (a) of the second proviso to section 27 may, within sixty days from the date of receipt of such order, by an application in writing, accompanied by a fee of three hundred rupees. file 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."

4] Since the impugned order is made under section 31 of the Stamp Act, and since, Section 31 is a part of Chapter III of the Stamp Act, the preliminary objection raised by the Mr. Rayrikar is required to be upheld.

5] Mr. Parekh, learned counsel for the petitioners however seeks leave to amend the petition. He, in fact, hands in a draft amendment. In the draft amendment, certain pleas are sought to be raised as regards the powers of the appellate authority. In the petition as originally instituted, a bold as well as bald statement was made in paragraph 14 that the petitioners have no alternate or efficacious remedy available. Making of such statement was not at all justified, considering, not only the statutory provisions but also the fact that the impugned order had itself indicated that remedy of appeal was clearly available in case, the petitioners, were aggrieved by the impugned order.

6] This petition is therefore dismissed on the ground of availability of alternate remedy.

7] There shall be no order as to costs.