

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6863 OF 2016

Magma Fincorp Ltd., Kolkata and another

-vs-

The State of Maharashtra, thr. Principal Secretary, Revenue and Forests Deptt. and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. P.P.Kothari, counsel for the petitioners.

Mr. I.J.Damle, AGP for the respondent Nos.1 and 2.

CORAM : SMT. VASANTI A NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 07.12.2016.

By this petition, the petitioner-Finance Company has sought a declaration that the demand made by the respondent No.2-Sub-Registrar and Collector of Stamps, Akola vide communications dated 29/07/2015, 30/01/2016 and 28/11/2016 is illegal. The petitioner seeks a declaration that the documents that are executed out of the State of Maharashtra and that are not produced before any authority in Maharashtra are not chargeable with stamp duty under the Maharashtra Stamps Act.

The petitioner is a finance company disbursing finance to its customers. Vide communication dated 12/06/2015 the respondent No.2 informed the petitioner that while disbursing loan to its customers, it appeared that the petitioner had not paid the stamp duty and hence, the petitioner should supply the information about its customers from the date of opening of the branch office of the petitioner at Akola in May 2015 for further action. The petitioner replied to the said communication and stated that all the agreements were executed by the petitioner in Kolkata and not in Akola and hence, the petitioner was not liable to pay the stamp duty under the Maharashtra Stamps Act. The petitioner wrote to the respondent No.2 that the petitioner cannot be called upon to produce the documents

pertaining to the customers of the petitioner from the date of opening of the branch office in the month of May 2015. The petitioner declined to supply the information as sought by the respondent No.2 on the ground that the petitioner was not obliged to do so. In view of the refusal on the part of the petitioner to supply the information that was sought, the respondent No.2 has contemplated action against the petitioner under the provisions of section 68-A of the Maharashtra Stamps Act. The petitioner has impugned the action on the part of the respondent No.2 of contemplating the initiation of the proceedings under section 68-A of the Act, in this writ petition.

We do not find any fault with the action on the part of the respondent No.2 of contemplating the initiation of the proceedings against the petitioner under the provisions of section 68-A of the Act. The petitioner was asked by the respondent No.2 to supply information about the customers of the petitioner, from May 2015, relating to the disbursement of the loan but the petitioner refused to supply the information on the ground that the petitioner was not obliged to do so and the respondent No.2 could not have called upon the petitioner to supply the information. Section 68-A of the Act provides that, if a person prevents or obstructs entry of an officer authorized under section 68 or fails to give any reasonable assistance to him, he would be on conviction be punished with imprisonment. Section 68-A contemplates action if reasonable assistance is not provided by a person to an officer, who is authorized under section 68. Admittedly, the petitioner was called upon to supply certain documents, which the petitioner refused to supply. In this background, it cannot be said in writ jurisdiction that the action on the part of the respondent No.2 is bad-in-law, as the petitioner was executing all the transactions of the customers in Kolkata and not in Akola. It would not be for this court in exercise of the writ jurisdiction to record a finding that all the transactions were executed by the petitioner firm only in Kolkata and no transactions were executed in Akola when the respondent No.2 has reason to believe that the loan is disbursed by the petitioner firm in Akola and the stamp duty in respect of the said transactions is not paid.

It is not understood as to why the petitioner firm is not ready to supply the information in regard to its customers to the respondent No.2 authority, from May 2015 onwards. If the petitioner would have supplied the said information, the respondent No.2 could have been in a position to gauge whether the transactions were executed by the petitioner in Kolkata or in Akola.

In the aforesaid set of facts, we are not inclined to grant the prayers made in the writ petition. Hence, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

KHUNTE