

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5856 OF 2016

Babasaheb S/o Bhagorao Ghuge

Petitioner

Versus

Premlabai Surajmal Thole & another

Respondents

Mr. B.S. Shinde advocate for the petitioner

Mr. S.K. Tambe, AGP for Respondent No.2

Mr. P.F. Patni advocate for respondent No.1

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 5th July, 2017.)

PER COURT :-

1 The petitioner is aggrieved by the order dated 23.2.2016 passed by the Collector of Stamps Aurangabad, respondent No.2 herein.

2 Specific grievance of the petitioner is that, the trial Court, by its order dated 17.8.2015 had allowed the Application dated 17.8.2015, thereby directing the impounding of the agreement of sale dated 22.2.2009 and the Bharana pavati dated 9.4.2014, which are with respect to Rs.34,00,000/-. Respondent No.2 has directed the petitioner to pay stamp duty of Rs.6,90,000/- inclusive of penalty on the total amount of Rs.69,00,000/-

considering it to be the consideration of the transaction. The respondent No.2 should not have gone beyond Rs.34,00,000/-.

3 Learned AGP submits that a statutory remedy in the form of an Appeal under section 53(1)(A) of the Maharashtra Stamps Act is available and this Court need not entertain this petition.

4 I find that section 53(1)(A) permits filing of such an appeal to the Chief Controller, revenue authorities, which is the Divisional Controller of Stamps at Pune. The limitation of 60 days has also been provided.

5 Learned counsel for the petitioner, therefore, submits that he would resort to the remedy under section 53(1)(A). This petition can be disposed of. However, the time spent in this Court may be condoned.

6 Considering the above, this petition is disposed of as withdrawn, with liberty to the petitioner to prefer an Appeal under section 53(1)(A), within a period of three weeks from today. Considering that the impugned order dated 23.2.2016 was received by the petitioner on 27.2.2016 and he had filed this petition on 25.4.2016 in this Court, the time spent shall be a good ground for condonation of delay, which the petitioner may seek by

filing a separate application.

7 In the event, the Appeal is filed within three weeks, the concerned authority, after extending a reasonable opportunity of hearing to the parties, shall decide the same as expeditiously as possible and preferably on or before 13.10.2017.

(RAVINDRA V. GHUGE , J)