IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6800 OF 2016

Raheja Legacy Trust and ors .. Petitioners
vs.
State of Maharashtra and ors. .. Respondents

Mr. Bharat Zaveri, Mr. Paul P.P, Mr. Darshan Zaveri for the Petitioner.
Mr. J.A. Madane, AGP for Respondent Nos.1 to 3.

CORAM : M. S. SONAK, J.
DATE : 14 DECEMBER 2017

P.C. :-

1] Heard Mr. Bharat Zaveri, learned counsel for the petitioners and Mr. J.A. Madane, learned AGP for the respondents - State.

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

3] The challenge in this petition is to the order dated 19th January 2015 made by the Chief Controlling Revenue Authority, Maharashtra State, Pune (Chief Controlling Revenue Authority) dismissing the petitioner's application dated 26th November 2012 seeking refund of stamp duty upon cancellation of agreement for sale dated 29th November 2010.

3] The petitioner had initially, instituted an appeal against the impugned order before the Inspector General of Registration and Controller of Stamps Maharashtra State, Pune. However, by order dated 17th February 2016, the appeal was dismissed as not maintainable. Learned counsel for the petitioner also concedes that the appeal was not maintainable and the only remedy available to the petitioner was institution of writ petition by invoking the provisions of Articles 226 and 227 of the Constitution of India.

4] In this case, it is not necessary to advert to the facts because, from the perusal of the impugned order, it is quite clear that the same is a non-speaking order or an order without disclosing any reasons. All that the impugned order states that the claim for refund made by the petitioner is beyond the scope of provisions contained in Section 48(1) of the Bombay Stamp Act, 1958.

5] The aforesaid is a conclusion and the same cannot be regarded as any reason. There were several contentions raised by the petitioner, however, the same have not even been considered whilst making the impugned order. In a matter of this nature, furnish of reasons was necessary as otherwise, the issuance of unreasoned or non-speaking orders can itself be construed as breach of principles of natural justice and fair play.

6] On this short ground, the impugned order is liable to be set aside and is hereby set aside. The matter is remanded to the Chief Controlling Revenue Authority, who shall reconsider the petitioner's application for refund of stamp duty on its own merits and in accordance with law. The Chief Controlling Revenue Authority is directed to dispose of the petitioner's application dated 26th November 2012 as expeditiously as possible and in any case within a period of three months from the date of production of an authenticated copy of this order.

7] It is made clear that this Court has not adjudicated the matter on merits and therefore, it will be open to the Chief Controlling Revenue Authority to decide the matter afresh on merits and in accordance with law. The Chief Controlling Revenue Authority is also directed to afford an opportunity of hearing to the petitioner. Needless to add that the disposal shall be by means of reasoned order.

8] The petitioner to appear before the Chief Controlling Revenue Authority on 27th December 2017 at 3.00 p.m. and produce an authenticated copy of this order.

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

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

(M. S. SONAK, J.)