

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10741 OF 2017

M/s. Rizvi Builders

.. Petitioner

vs.

The Inspector General of
Registration, Pune and ors.

.. Respondents

Mr. Akash Rebello a/w. Mr. Mahesh Mishra i/b Ravi Thankaian for
the Petitioner.

Mr. S.H. Kankal, AGP for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 26 SEPTEMBER 2017.

P.C. :-

1] Not on board. Upon mentioning by Mr. S.H. Kankal, learned
AGP, the matter is taken on board.

2] On 25th September 2017, this petition was disposed of by
directing the Revisional Authority to dispose of the petitioner's
application for interim relief in Revision Application No. 244 of 2016
within a time bound schedule. In the meanwhile, there was a
restraint on adoption of coercive steps by the respondents to enforce
the demand notice dated 19th September 2017 (Exhibit- T to the
petition).

3] Mr. Kankal, learned AGP for the State, mentioned the matter yesterday itself to point out that as per his instructions, Revision Application No. 244 of 2016 instituted by the petitioner is no longer pending before the Revisional Authority, but has been disposed of by order dated 29th August 2017, which is in fact annexed to the petition at page 333. He submits that the order dated 29th August 2017, annexed to the petition, has not been challenged in this petition. In such circumstances, he submits that this a fit case for recall of the order dated 25th September 2017, since there is nothing pending before the Revisional Authority.

4] Mr. Rebello, learned counsel for the petitioner, submits that the communication dated 29th August 2017 makes no reference to the revision application and in any case, upon perusal of the single line of the said communication it was impossible to comprehend that this was in fact the order dismissing the petitioner's revision application.

5] Taking into consideration the statement of learned AGP, on basis of instructions from the Revisional Authority itself and Instructing Officer, who is a Stamp Collector, Borivali, it will have to

be accepted that the order dated 29th August 2017 is in fact, an order dismissing the petitioner's Revision Application No. 244 of 2016. Since the revision application is itself disposed of, the order dated 25th September 2017, will have to be recalled and is hereby recalled. Writ Petition No. 10741 of 2017 is consequently restored to the file.

6] Mr. Rebello seeks leave to amend the petition to challenge the order dated 29th August 2017. Such leave is required to be granted in order to avoid multiplicity. The amendment to be carried out forthwith.

7] The impugned order dated 29th August 2017 is a single line order, which communicates the conclusion that the demand in question, has attained finality and therefore, the revision is being disposed of. The impugned order, does not reflect any consideration of the contentions of the parties. The impugned order is non-speaking.

8] In these circumstances, learned AGP agreed that the impugned order can be set aside and the matter can be remanded to the

Revisional Authority for fresh consideration of Revision Application No. 244 of 2016. Learned AGP has rightly submitted that if the petitioner, seeks any interim relief, then it must be required to deposit the entire demanded amount without prejudice to its rights and contentions in the revision application. He points out that this is virtually the third round of litigation, the previous two rounds having been decided against the petitioner.

9] There is merit in the submission of learned AGP. In case, the petitioner seeks interim reliefs, which the petitioner does, it must, within a period of two weeks from today, pay without prejudice to its rights and contentions the demanded amount of Rs.1,65,57,536/- to respondent No.3. The petitioner states that it will pay such amount to respondent No.3 within a period of two weeks from today, without prejudice to its rights and contentions in the revision application, which is now restored for reconsideration before the Revisional Authority. This statement is accepted. Upon payment, attachment to stand withdrawn. Further, in view of the undertaking to pay, the petitioner's bank account to stand de-frozen so as to facilitate the payment to respondent No.3.

10] The petitioner to appear before the Revisional Authority on 12th October 2017 at 3.00 p.m. and produce an authenticated copy of this order as also the necessary evidence of payment to respondent No.3.

11] It is made clear that the payment to respondent No.3 shall abide by the final orders that will be made in the revision application including the orders with regard to payment of interest in case the revision application is allowed.

12] The Revisional Authority is directed to dispose of the revision application as expeditiously as possible and in any case within a period of three months from the date of production of authenticated copy of this order.

13] This petition is disposed of in the aforesaid terms without any orders of cost.

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

(M. S. SONAK, J.)