

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.573 OF 2017

Office Notes, Office Memorandum - Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr.Madhav Jamdar a/w Ms.Shruti Maniar,
Mr.Ranabir Datta i/b M/s.Solomon & Co. for the
petitioner

Mr.Kedar Dighe for the respondent

CORAM : K. K. TATED, J.

DATE : FEBRUARY 28, 2017

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 9.1.2017 passed by Additional Divisional Commissioner, Konkan Division, Mumbai in Land Appeal No.210 of 2015 calling upon the petitioner to deposit sum of 25% as per the amended provisions of Section 256(2) of the Maharashtra Land Revenue Code, 1966.
- 3 It is the case of the petitioner that they preferred Appeal challenging the order dated 10.4.2015 passed by Collector, Mumbai Suburban District calling upon the petitioner to pay sum of Rs.7,35,31,440/- towards the pending lease rent

from 2004 to 2015.

4 The learned counsel for the petitioner submits that during the pendency of their Appeal under section 247 of the Maharashtra Land Revenue Code, 1966, Additional Divisional Commissioner stayed the order passed by Collector, Mumbai Suburban District on 5.1.2017. He submits that without giving any hearing to the petitioner and or intimating, the Additional Divisional Commissioner on his own modified the order dated 5.1.2017 and directed petitioner to deposit 25% of the amount involved in the said Appeal. He submits that thereafter Additional Commissioner, Konkan Division, Mumbai by order dated 27th January, 2017 vacated order of stay for non deposit of 25% amount. He submits that both the orders were passed by the Additional Divisional Commissioner without giving any hearing and therefore, same is required to be set aside.

5 On the other hand, the learned A.G.P for the respondent after taking instruction from the concerned officer Mr.Sandeep Mane, Tahsildar Kurla present makes a statement that it is correct that they have not given any notice to the petitioner before modifying the order dated 5.1.2017.

6 Considering the fact that Additional Divisional Commissioner passed order dt.9.1.2017 and 27.1.2017 without following due process of

law and or giving any notice to the petitioner, it requires to be set aside. Hence, following order is passed:

- a) Order dated 9.1.2017 and 27.1.2017 passed by Additional Divisional Commissioner, Konkan Division, Mumbai is set aside.
- b) Order dated 5.1.2017 passed by Additional Divisional Commissioner, Konkan Division, Mumbai granting stay is restored.
- c) Writ Petition stands disposed of accordingly.

JUDGE