

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION PETITION NO. 1854 OF 2015
WITH
NOTICE OF MOTION (LODG.) NO. 1420 OF 2017
IN
ARBITRATION PETITION NO. 1854 OF 2015**

M/s. Rikki Ronie Builders .. Applicant/Petitioner
Vs.
M/s.S. Savla Constructions .. Respondent

Mr.Sharan Jagtiani a/w. Ms.Nita Solanki and Mr.Ish jain i/b Kiran Jain and Co. for petitioner/applicant in NMSL/1420/2017.

Mr.Kishore Jain a/w. Mr.Darshit K. Jain i/b Divya Jian and Shweta Jain for respondent.

**CORAM : K.R.SHRIRAM, J.
DATE : 18TH JULY, 2017**

P.C.

NOTICE OF MOTION (LODG.) NO. 1420 OF 2017

1 On 13th June 2017, it was observed that the petitioner had not paid the stamp duty since 25th January 2016 despite this Court granting sufficient extension. On 13th June 2017, it was made clear that last chance to pay stamp duty upto 15th June 2017 is granted and the petition shall stand dismissed without further reference to the Court if the stamp duty was not paid and proof of payment is not filed in the registry.

2 In the meanwhile, the petitioner has lodged Notice of Motion

No.1175 of 2017 in which the relief sought is to extend the time to pay the stamp duty until the Collector of Stamps adjudicates the plaintiff's case being case No.ADJ/1000902/563/17/M and the petitioner be allowed to make payment of stamp duty in accordance thereof within such time as directed by this Court. The petitioner has also tendered today an affidavit of one Paras Shantilal Porwal affirmed on 12th July 2017 to which is annexed a notice dated 12th July 2017 under Sections 33 and 39 of the Maharashtra Stamp Act, 1958 in which the Collector of Stamps, Enforcement (II), Mumbai has made a demand of stamp duty plus additional amount in excess of Rs.34 crores and calling upon the petitioner to respond on or before 21st July 2017 and has given fixed hearing at 11:30 a.m. on 21st July 2017 at which time, the petitioner is directed to give their written say and documents.

3 Mr.Jagtiani for the petitioner states that the computation is totally erroneous and they have enough material to satisfy the Notice Issuing Authority that the amount demanded is erroneous. Mr.Jagtiani states that their application for adjudication is pending and in addition, there is also a demand for payment made independently by another department. Mr.Jain for the respondent strongly opposes and states that the petitioner is doing this to delay the automatic consequence of not paying the stamp duty, as

directed by this Court on 13th June 2017. Mr. Jain points out that the application of the petitioner for adjudication has been lodged only on 11th July 2017, when the order of this Court is dated 13th June 2017 and there is no explanation as to what the petitioner did for almost one month. Mr. Jain also submits that there is no explanation as to why the petitioner did not pay any stamp duty despite the order dated 2nd February 2016 and it exposes the *modus operandi* of the petitioner that take whatever steps required but do not pay the stamp duty and delay the dismissal of the petition.

4 Heard the counsels and also considered the affidavit in support and the additional affidavit. It is true that there is no explanation for the delay in applying for adjudication of stamp duty. There is no explanation as to why between 13th June 2017 to 11th July 2017, the petitioner did not move expeditiously but at the same time, the petitioner having taken steps to have the original Development Agreement dated 6th March 2008 adjudicated by the Collector of Stamps and the Collector of Stamps, Enforcement (II), Mumbai having issued a notice of demand to the petitioner, in my view, the petitioner should be given some more time to pay the stamp duty. Therefore, the self operative order of 13th June 2017 that the petition shall stand dismissed without further reference to the Court if stamp duty is not paid by 15th July 2017, is hereby recalled.

5 Stand over to 1st September 2017 for Directions.

For today's adjournment Mr.Jain is insisting that costs should be imposed upon the petitioner. The petitioner to pay a sum of Rs.25,000/- as costs for today's adjournment and this amount to be paid by way of cheque drawn in favour of Advocate on record for the respondent within two weeks.

6 The notice of motion accordingly disposed.

Since the notice of motion is disposed, the respondent not having filed affidavit in reply to the affidavit in support or the further affidavit, the respondent's denials on all the allegations made, is noted.

(K.R. SHRIRAM, J.)