

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7072 OF 2017

SANDIP DINKARRAO DESHMUKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA, THROUGH JOINT
DISTRICT REGISTRAR JALNA.

...

Advocate for Petitioners : Mr. Suryawanshi Kamlakar J.
AGP for Respondents: Mr. S P Tiwari

...

CORAM : V.K. JADHAV, J.
Dated: February 22, 2018

...

PER COURT :-

1. Heard finally with consent at admission stage.
2. Learned counsel for the petitioner submits that, the petitioner have purchased the land gat no.151/4 to the extent of 8 acres 22 gunthas on 7.4.1999 under the registered sale deed for a consideration amount of Rs.2,15,000/- and stamp duty of Rs.14,000/- was paid at the time of registration of the said document. Even, on the basis of the sale deed, mutation entry has been sanctioned and names of the petitioners are recorded in the ownership and possession column of the 7/12

aaa/-

extract of the said land. In the month of November, 2014 the petitioners applied for a certified copy of the sale deed to the Sub Registrar Office, Jalna and at that time the petitioners came to know that the document of sale deed is stayed under section 32-A of the Maharashtra Stamp Act, 1958. On 3.2.2017 the Stamp Collector, Jalna has passed an order with a copy marked to the present petitioner no.1 to the effect that, the stamp duty paid on the said document at the time of the registration of the document is inadequate and the petitioners are liable to pay the stamp duty to the extent of Rs.5,54,210/-.

3. The learned counsel for the petitioners submits that, in terms of the provisions of Section 32-A Sub-Section (4) of the Maharashtra Stamp Act, 1958 the Collector shall, after giving the parties concerned a reasonable opportunity of being heard and in accordance with the rules made by the State Government in that behalf, can pass the appropriate order. Learned counsel submits that, in the instant

aaa/-

case, the Collector, Stamp has not given any opportunity of being heard to the petitioners and passed the impugned order. Learned counsel submits that, the impugned order is liable to be quashed and set aside. In the alternate, the learned counsel submits that, the matter may be remitted to the Collector, Stamp with a direction to give opportunity of being heard to the petitioners and pass appropriate orders on merits in terms of the section 32-A of the Maharashtra Stamp Act, 1958.

4. The learned A.G.P. submits that, the petitioners have paid inadequate stamp duty on the document at the time of the registration and, as such, the respondent Collector, Stamp has rightly passed the order on 3.2.2017. Learned A.G.P. submits that, if, the opportunity of being heard is not given to the petitioners, then, the matter may be remitted to the respondent with the specific directions about giving an opportunity of being heard to the petitioners.

5. In terms of the provisions of Section 32-A of the Maharashtra Stamp Act, 1958, the instrument of conveyance, etc, if undervalued, the Registering Office, if, has a reason to believe on the basis of the information available in this behalf that market value of the immovable property which is subject matter of the instrument has not been truly set-forth, then he shall immediately after receiving of such an instrument, refer it to the Collector for determination of the true market value of such property.

6. In the instant case, after a gap of 15 to 16 years the Collector Stamp has passed such an order wherein an opportunity of being heard is not given to the petitioners. In view of sub-section (4) of Section 32-A it is incumbent upon the Collector Stamp to give an opportunity of being heard to the parties concerned. In view of the above, I proceed to pass the following order.

O R D E R

1. Writ Petition is hereby partly allowed. No costs.

aaa/-

2. The impugned order dated 3.2.2017 passed by the Respondent – Joint District Registrar, Class-I and Stamp Collector, Jalna is hereby quashed and set aside.
3. The matter is remitted to the Collector, Stamp, Jalna with a direction to decide the same afresh, on its own merits, after giving an opportunity of being heard to the petitioners.
4. Petitioner shall appear before the Collector, Stamp, Jalna on 5.3.2018.
5. Writ Petition accordingly disposed of.

(V.K. JADHAV, J.)

...