

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2374 OF 2017

Shri Gajanan Balasaheb Bolaj	.. Petitioner
Vs.	
The Assistant District Registrar -I and the Collector of Stamps	.. Respondents

Mr. Prajakt M. Arjunwadkar, for the Petitioner.
Ms. Vaishali Nimbalkar, AGP for State.

CORAM : M.S.KARNIK, J.

DATE : 12th FEBRUARY, 2018

P.C. :

1. The petitioner is the owner of the agricultural land. It is the case of the petitioner that there was oral partition effected on 28/08/2008. The said partition was reduced in writing as well. As some of the sharers were not satisfied with the oral partition, the petitioner had to file Suit for declaration being Regular Civil Suit No. 71 of 2015 before the learned Civil Judge, Senior Division at Sangli. During the pendency of the Suit, parties compromised the dispute. Accordingly, decree was

passed in terms of the compromise.

2. The Collector of Stamps issued a notice under section 33 of the Bombay Stamp Act, 1958 on 20/10/2006 to the petitioner for payment of requisite stamp duty amounting to Rs. 15,53,200/- within a period of 7 days.

3. In the submission of the learned Counsel for the petitioner, the land is an agricultural land and as dispute was compromised, petitioner is not liable to pay stamp duty as demanded by the Collector of the Stamp. He has invited my attention to the communication dated 24/08/2015 in some other case. It is pointed out by learned Counsel that in identical set of facts stamp duty of Rs. 100/- only was levied.

4. Learned AGP supports the impugned order.

Be that as it may, in my opinion, following order would meet the ends of justice.

ORDER

- i) The communication dated 20/10/2016 may be treated as notice to the petitioner.
 - ii) The petitioner should be granted an opportunity to reply to the notice and after hearing him the Collector of Stamp to pass appropriate order in accordance with law on its own merits without being influenced by any observation made in this order.
 - iii) The petitioner to file reply to the notice dated 20/10/2016 within a period of 3 weeks from today.
 - iv) The Collector of Stamp to hear the petitioner and then pass an order within a period of 6 weeks thereafter.
5. Writ Petition is disposed of in the above terms. No order as to costs.

(M.S.KARNIK, J.)