

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY*****CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 2911 OF 2017****Suresh Balasaheb Gavhane & Anr.****..... Petitioners****VERSUS****The State of Maharashtra & Ors.****..... Respondents**

Mr.Sudhir Nanode, a/w. Mr. Anup Nikam for the Petitioners.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos. 1 to 3.

**CORAM : R.D. DHANUKA, J.****DATE : 30<sup>th</sup> JANUARY, 2018****P.C.**

Matter is on board and is mentioned out of turn.

2. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 27<sup>th</sup> June, 2016 passed by the learned District Deputy Registrar-1 and Collector of Stamp Pune (Ruler) Pune and also the order dated 8<sup>th</sup> December, 2016 passed by the Deputy Inspector General of Registration and Deputy Controller of Stamp, Pune Division, Pune in Appeal bearing No.27 of 2016. A perusal of the order dated 8<sup>th</sup> December, 2016 passed by the Deputy Inspector General of Registration and Deputy Controller of Stamp, Pune Division, Pune in Appeal bearing No.27 of 2016 indicates that the learned Authority has not rendered the reasons while dismissing the appeal filed by the petitioners.

3. The Authority has sought to give various reasons in the affidavit in reply filed before this court on 12<sup>th</sup> June, 2017. In my view, the

reasons which are absent in the impugned order cannot be supplanted in the affidavit in reply.

4. Learned counsel for the petitioners on instruction states that his clients have no objection if the impugned order dated 8<sup>th</sup> December, 2016 passed by the Deputy Inspector General of Registration and Deputy Controller of Stamp, Pune Division, Pune in Appeal bearing No.27 of 2016 is set aside and the matter is remanded back to the Deputy Inspector General of Registration and Deputy Controller of Stamp, Pune Division, Pune. Statement is accepted.

5. The impugned order dated 8<sup>th</sup> December, 2016 passed by the Deputy Inspector General of Registration and Deputy Controller of Stamp, Pune Division, Pune in Appeal bearing No.27 of 2016 is accordingly set aside. The matter is remanded back to the said Authority. Appeal No.27 of 2016 is restored to file. The learned Authority to pass a fresh order after giving an opportunity to the petitioners in person or through an advocate.

6. The respondents are directed to furnish the material proposed to be relied upon by the respondents against the petitioners in the Appeal No.27 of 2016 filed by the petitioners in advance before the matter is heard finally by the Appellate Authority.

7. Learned counsel for the petitioners on instruction states that insofar as the percentage at which the stamp duty is levied by the Authority is not disputed now by his clients. He is only disputing the

valuation of the property and the interest and penalty thereon. Statement is accepted.

8. The Appellate Authority shall decide the matter afresh without being influenced by the observations made in the impugned order passed by him and the conclusion drawn and shall pass an order after considering the arguments and the material which was already produced and to be produced by the petitioners and shall pass an order within three months from the date of the communication of this order.

9. The parties to act on the authenticated copy of this order.

10. Writ petition is disposed of in the aforesaid terms. No order as to costs.

11. The petitioners are directed to remain present before the Appellate Authority on 8<sup>th</sup> February, 2018 at 02.30 p.m.

**[R.D. DHANUKA, J.]**