

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION (ST)NO. 8931 OF 2018****Sureshkumar Onkarmal Khandelwal****..... Petitioner****VERSUS****District Deputy Registrar & Ors.****..... Respondents**

Mr.Nimesh Dave, a/w. Mr.Ravi Punjabi, Ms.Hemangi Chavan for the Petitioner.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent no.1.

Mr.S.S.Murthy, i/b. Mr.Abhishek Patil for the Respondent no.2.

Mr.Nitesh Bhutekar for the Respondent no.8.

CORAM : R.D. DHANUKA, J.

DATE : 24th APRIL, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 12th January, 2018 passed by the competent authority under section 11 of the MOFA. There is dispute about the title in respect of the suit property raised by the petitioner. The respondent no.2 has already lodged the document for adjudication of the stamp duty. Mr. Murthy, learned counsel for the respondent no.2 made a statement before this court on 11th April, 2018 that his client will not pay stamp duty till next date. The petitioner also made a statement before this court that he will not create any third party rights in respect of the property in question till date. The matter has been already argued on the last date by both the parties. The matter was adjourned to enable the petitioner to make a statement before this court whether the petitioner would file a civil suit for issue

of adjudication of title and possession.

2. Mr.Murthy, learned counsel for the respondent no.2 is not willing to continue the statement made before this court on 11th April,2018 that his client will not pay the stamp duty till next.

3. In my view, the authority under section 11(3) of the MOFA even otherwise cannot make any adjudication of the title in respect of the property in question. The petitioner will have to file a civil suit for adjudication of the title and for interim relief if he so desire.

4. I am thus not inclined to interfere with the impugned order however with a clarification that the petitioner would be at liberty to file a civil suit. If any civil suit is filed by the petitioner for adjudication of the title in respect of the property in question, the said suit shall be decided on its own merits without being influenced by the observations if any made by the authority in the impugned order insofar as title in respect of the property is concerned.

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

[R.D. DHANUKA, J.]