

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.4885 OF 2016

Safalya Co-operative Housing Society Ltd.	]	
(through Chairman/Secretary)	]	Petitioner
Vs.		
The Collector of Stamps, Thane City	]	
and others.	]	Respondents

.....
Mr. Vivek V. Salunke, learned Counsel for the petitioner.
Mr. S.D. Rayrikar, learned A.G.P, for Respondents.

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CORAM : R.G. KETKAR, J.

DATE : 18th DECEMBER, 2018.

P.C.

Heard Mr. Salunke, learned Counsel for the petitioner and Mr. Rayrikar, learned A.G.P, for respondents at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 19th December, 2015 passed by respondent No.2, the Deputy Inspector General of Registration and Deputy Controller of Stamps, Konkan Division, Thane (for short 'Controller') in Appeal No.13 of 2015. By that order, the Controller dismissed the appeal preferred by the petitioner herein and upheld the order dated 5th August, 2015 passed by Joint District Registrar (Class-I), Thane (City).

3. Rule. Mr. Rayrikar waives service on behalf of respondents. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of learned Counsel for the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

4. The petitioner had submitted deemed Conveyance for determining payment of stamp duty. By order dated 5th August, 2015, Collector of Stamps rejected the application. Aggrieved by that decision, the petitioner preferred Appeal under section 32B of the Maharashtra Stamp Act. By the impugned order, the Controller has dismissed the appeal upholding the order of the Stamp Collector dated 5th August, 2015. It is against this order, the petitioner has instituted the present Petition.

5. In support of this Petition, Mr. Salunke submitted that while dismissing the appeal, the Controller did not give any reasons. He invited my attention to the impugned order. He submitted that impugned order records submissions advanced on behalf of the petitioner and the submissions advanced on behalf of the Assigning Authority. After recording the submissions, in one line, the Controller observed that the Joint District Registrar (Class-I), Thane (City) has arrived at proper valuation in accordance with law and, therefore, the appeal is liable to be dismissed.

6. Mr. Salunke submitted that no reasons are given by the Appellate Authority namely Controller while dismissing the appeal. Mr. Rayrikar was not in a position to controvert this submission. Even otherwise, a perusal of the impugned order shows that the Controller recorded submission of the petitioner and the submissions of the assigning authority, No reasons are given for dismissing the appeal. On this ground alone, the order is liable to be set aside, thereby, restoring the appeal filed by the petitioner before the Controller for deciding afresh. While deciding the appeal, the Controller shall give reasons and pass the order in accordance with law.

7. The petitioner shall appear before respondent No.2, Controller on 7th January, 2019. For that purpose, no fresh notice be issued to them.

Respondent No.2, Controller will fix a suitable date and within 4 weeks from fixing the suitable date, decide the appeal. All contentions of the parties are expressly kept open. Rule is made absolute accordingly with no order as to costs.

8. All the parties including 2nd respondent-Controller to act upon the authenticated copy of this order.

[R.G. KETKAR, J.]