

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 10558 OF 2016****Bank of Baroda****..... Petitioner****VERSUS****Office of the Inspector General of****Registration and Controller of Stamps & Ors.****..... Respondents**

Dr.Abhinav Chandrachud, a/w. Mr.Nishit Dhruva, Mr.Prakash Shinde,
i/b. MDP & Partners for the Petitioner.

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

CORAM : R.D. DHANUKA, J.**DATE : 13th AUGUST, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 18th June, 2016 passed by the learned Chief Controlling Revenue Authority, Maharashtra State, Pune rejecting the Appeal No.171/2015 on the ground of maintainability.

2. Dr.Chandrachud, learned counsel for the petitioner invited my attention to the order dated 7th September, 2015 passed in Writ Petition No.8834 of 2015 which was filed by the petitioner impugning the order dated 11th February,2015. This court after hearing the respondents therein including the State of Maharashtra observed that the remedy of the petitioner would be to file an appeal under section 53(1A) of the Maharashtra Stamp Act, 1958 and on that ground did not entertain the said writ petition. Pursuant to the said order dated 7th September, 2015,

the petitioner herein preferred an appeal under section 53(1A) of the Maharashtra Stamp Act, 1958 before the appropriate authority. The petitioner also applied for condonation of delay in filing the first appeal.

3. The appellate authority has rejected the said appeal on the ground of maintainability contrary to the order dated 7th September, 2015 passed by this court and did not consider the application for delay only on the ground that there was no sufficient reasons for condonation of delay.

4. The petitioner had earlier preferred a writ petition against the said order dated 11th February, 2015. In view of the objections raised by the respondents about maintainability of the said writ petition, this court ultimately disposed of the said writ petition on 7th September, 2015. In my view, the said appeal was maintainable.

5. In my view, the petitioner had explained the delay in filing the said appeal before the appellate authority and the same could not have been rejected on the ground of that delay as well as on the ground of maintainability. Delay was sufficiently explained by the petitioner.

6. Be that as it may, in view of the appellate authority rejecting the said appeal on the ground of maintainability, no such observations could have been made on the issue of delay allegedly not having been explained.

7. I, therefore, pass the following order :-

(a) The impugned order dated 18th June, 2016 rejecting the appeal filed by the petitioner under section 53(2A) of the Maharashtra Stamp Act is set aside.

(b) Appeal No.171/2015 is restored to file before the appellate authority. Delay if any in filing the appeal is condoned. The appellate authority shall decide the said appeal on its own merits without being influenced by the observations made in the impugned order dated 18th June, 2016.

(c) It is made clear that this court has not expressed any views on the merit of the matter.

(d) All contentions on merits are kept open.

(e) The appellate authority shall dispose of the said appeal within four months from the date of the first hearing.

(f) The petitioner undertakes not to seek any unnecessary adjournment before the appellate authority.

(g) The petitioner to appear before the appellate authority on 27th August, 2018 at 03.00 p.m. If the date

and time is not convenient to the appellate authority, the earliest date shall be conveyed to the petitioner with clear 7 days notice.

8. Writ petition is allowed in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]