

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2067 OF 2018
IN
WRIT PETITION NO. 10209 OF 2018**

M/s. Vivanta Realty through .Applicant
its Partner Vasant Khandu Kate

Vs.

The State of Maharashtra through .Respondents
the Revenue Minister & ors.

Mr. Atul Damle, Senior Counsel i/b. Mr. V. V. Ugle, Advocate, for
the Applicant

Mr. S. H. Kankal, AGP, for the Respondent Nos. 1 to 5 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 09.10.2018

P.C.

. By this Application, the Applicant has sought the
following reliefs;

(a) That pending the hearing and final disposal of the present petition, the Respondent No. 6 and 7 be directed to defreeze the account and/or amount of the applicant maintained with the Respondent No. 6 being Bank Account No. 00000032908448660 subject to the conditions that the applicant shall maintain present balance in the said accounts on such terms as this Hon'ble court may deem fit and proper in the matter;

(b) That interim and ad-interim reliefs in terms of prayer (a) above be granted;

(c) That for such other and further reliefs as this Hon'ble Court may deem fit and proper.

2. At the outset, learned Senior Counsel for the Applicant submits that the Applicant's two accounts; i. e. one with the Kotak Mahindra Bank (A/c. No. 0611365383) and other with the State Bank of India (A/c. No. 00000032908448660) be de-freezed, on the Applicant depositing Bank Guarantee of Rs.53,22,731/- with the Collector of Stamps, Pune. He submits that the Applicant is depositing the said Bank Guarantee without prejudice to his rights & contentions pending further orders in the Writ Petition.

3. Learned AGP opposes the Application. He submits that the Applicant be directed to deposit the entire amount i. e. the amount towards the deficit stamp duty as well as the penalty amount.

4. The main Petition is pending in which the Petitioner has impugned the orders passed by the Collector of Stamps, Pune as well as by the Appellate Authority. The Applicant is also questioned the right of the Respondent to pass the impugned

order under Section 46 of the Maharashtra Stamp Act. Having regard to the same, at this stage, in view of the statement made by the learned Senior Counsel for the Applicant, it would be appropriate to direct the Applicant to give the Bank Guarantee of Rs. 53,22,731/- without prejudice to the Applicant's rights and contentions, pending further orders in the Writ Petition. The said Bank Guarantee to be deposited by the Applicant with the Collector of Stamps, Pune within one week from today. On the Applicant's furnishing proof of the deposit of the Bank Guarantee, the Collector of Stamps, Pune (Urban) shall within 48 hours intimate the concerned Bank i. e. The Branch Managers, Kotak Mahindra Bank and State Bank of India for de-freezing the Applicant's Bank Account, being Account Nos. 0611365383 and 00000032908448660 respectively. The Applicant is also at liberty to furnish proof of the deposit before the Branch Managers, Kotak Mahindra Bank and State Bank of India, who shall telephonically verify the same with the Collector of Stamps, Pune and forthwith de-freeze the said accounts. This is an interim order, pending further orders in the Writ Petition. All contentions of the parties are kept open.

5. The Application is allowed on the aforesaid terms and is accordingly disposed off.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)