

Anand

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

WRIT PETITION NO. 12800 OF 2017

Kamla Homes & Lifestyles Pvt. Ltd. .Petitioner

Vs.

The State of Maharashtra & ors. .Respondents

Mr. P. N. Vora & Ms K. Prajapati, Advocate, for the Petitioner

Mr. A. Shinde, Panel 'B' Counsel, for the Respondents

Mr. S. Kale, Law Officer present

Mr. Gite, Assistant IGR present

Mr. Sanjay Jadhav, Collector of Stamps, Andheri present

Mr. S. H. Kankal, AGP, for the Respondent

CORAM : REVATI MOHITE DERE, J.

DATE : 01.11.2018

P.C.

. Heard learned counsel for the parties.

2. Learned AGP on instructions of Mr. Jadhav, Collector of Stamps makes a statement that the Respondent No. 2 is withdrawing the Orders dated 30.01.2016 & 29.08.2017. He submits that the Respondent No. 2 will refund the Petitioner, stamp duty of Rs. 33,97,000/- within 12 weeks from today. Statement accepted.

3. Learned counsel for the Petitioner submits that interest be awarded on the said amount of Rs. 33,97,000/-, considering the harassment caused to the Petitioner, as a result of the impugned order.

4. It is not in dispute that the Petitioner had signed an Agreement for re-development on 02.09.2015 and had paid a sum of Rs. 33,97,000/-, pursuant to which the said Agreement was registered with the Respondent No. 4. It appears that due to some typographical errors and missing documents, both the parties i. e. the Petitioner and Deepak Andheri Co-operative Housing Society mutually signed and executed a Deed of Cancellation on the very same day i. e. 02.09.2015, within four hours of the registration of the Agreement for re-development. Having regard to the facts of this case, the impugned Orders dated 30.01.2016 as well as 29.08.2017 are clearly untenable. Since the Respondent No. 2 has agreed to withdraw the said impugned Orders and refund the stamp duty of Rs. 33,97,000/-, it is not necessary to go into the merits and details of the case. However, having regard to the

facts, it is necessary in the interest of justice to impose some interest on the stamp duty that was paid by the Petitioner on 02.09.2015. Learned counsel for the State has left it to this Court to determine the interest, when asked how much interest is liable to be paid on Rs. 33,97,000/-. In the peculiar facts & circumstances of the case, it would be appropriate to direct the Respondents to pay interest @ 6% p. a. on the said amount of Rs. 33,97,000/-. The said interest to be calculated from the date of filing of the refund Application i. e. from 28.10.2015 till the said amount is actually paid to the Petitioner. The statement of the learned counsel appearing for the State is accepted that the entire process of refund of stamp duty alongwith interest @ 6% p. a. thereon would be completed within 12 weeks from today.

5. The Petition is disposed off on the aforesaid terms.

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

(REVATI MOHITE DERE, J.)