

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 13581 OF 2017****M/s.Merit Magnum Construction****..... Petitioner****VERSUS****Ketan Kantilal Thakkar & Ors.****..... Respondents**

Mr.G.S.Godbole, a/w. Ms.Ketki Gadkari, Mr.Manoj Kumbhare, i/b.
Mr.Atharva Dandekar for the Petitioner.

Mr.Rajesh Patil for the Respondent nos. 1 and 2.

Mr.A.Y.Sakhare, Senior Advocate, i/b. Mr.Rajesh Datar for the
Respondent no.217.

CORAM : R.D. DHANUKA, J.**DATE : 29th AUGUST, 2018****P.C.**

The matter was argued at length by the learned counsel for the parties.

2. Mr.Godbole, learned counsel appearing for the petitioner on instruction agrees that the agreement in question be forwarded to the Collector of Stamp for adjudication of the deficit stamp duty and penalty if any. Statement is accepted.

3. The document in question is impounded and be forwarded to the Collector of Stamps for assessing the stamp duty and penalty, if any, by the trial court. If there is any deficit in the payment of stamp duty and if penalty is required to be paid, the petitioner shall pay the same if any. After payment of such deficit stamp duty and penalty levied if any by the petitioner, the Collector of Stamp shall transmit the said

document to the learned Civil Judge, Senior Division, Kalyan.

4. It is made clear that if any adverse order is passed by the learned Collector of Stamp, the same shall be the subject to the outcome of the proceedings if any filed by the petitioner in accordance with law.

5. It is made clear that the learned Collector of Stamp shall decide the issue as to whether there is any deficit stamp duty or not without being influenced by the observations made by the learned trial judge in paragraphs (3) and (5) of the impugned order dated 7th August, 2017.

6. Insofar as the issue as to whether the said document dated 16th September, 2005 requires to be registered or not, it is made clear that the learned trial judge shall decide the said issue at the time of trial without being influenced by the observations made by the learned trial judge in paragraph (5) of the impugned order.

7. The learned trial judge shall forward the said document dated 16th September, 2005 to the learned Collector of Stamp for adjudication and for carrying out the directions issued by this court within one week from the date of copy of this order being made available to the learned trial judge.

8. The learned Collector of Stamp shall assess the deficit stamp duty and payment of penalty, if any, within four weeks from the date of receipt of the documents from the learned trial judge.

9. The authorities, the learned trial judge as well as the parties to act on the authenticated copy of this order.

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

[R.D. DHANUKA, J.]