

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

WRIT PETITION NO.13426 OF 2018

Mr. Narayan Baburao Khasnis and Anr. ...Petitioners

vs.

Inspector Gen. Of Registration Pune Division,
Pune and Ors. ...Respondents

Mr. Nitin P. Deshpande for the Petitioners.
Mr. B. V. Samant, AGP for the Respondents.

**CORAM : B. P. DHARMADHIKARI &
SARANG V. KOTWAL, JJ.
DATE : 30/11/2018.**

P.C.:

. Heard learned counsel for the petitioners and learned AGP for Respondent Nos.1 to 6. Respondent No.6 is a Talathi of concerned authority. In so far as respondent No.7 is concerned, he is the developer.

2. This Court has yet not issued notice to respondents. However considering the nature of order, at this stage we do not find it necessary to issue notice to the respondents.

3. According to the petitioner in view of clause (10) of the joint development agreement dated 27/10/2013 duty and obligation to pay the stamp duty or deficit stamp duty is of the builder developer. Learned counsel relied upon sections 30 and 47 of the Maharashtra Stamp Act 1958 to substantiate the submissions.

4. Learned APP does not dispute statutory provision however is seeking time to verify facts.

5. Admittedly, the impugned order dated 29/8/2018 does not refer either to said clause (10) or provision of sections 30 and 47 of the Maharashtra Stamp Act 1958. Not only this the petitioners asserts that no show cause notice was issued to the petitioners by the authority before working out deficit stamp duty and it was served only upon the developer.

6. In view of this position on facts, we find that interest of respondent can be safeguarded by continuing encumbrances created by impugned order 29/8/2018 for a period of 6 weeks from today.

7. We grant leave to the petitioner to file appropriate representation pointing out legal position and factual aspects within one week. If such representation is received by respondent No.2, respondent No.2 shall thereafter hear the petitioner, developer and pass orders afresh within further period of 4 weeks.

8. The directions to continue encumbrances in terms of order dated 29/8/2018 issued by us shall be subject to further orders to be passed by the Respondent.

9. With these directions we dispose of the present petition.

(SARANG V. KOTWAL, J.)

(B. P. DHARMADHIKARI, J.)