

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2379 OF 2017**

Samir Narain BhojwaniPetitioner
versus
The State of Maharashtra and ors.Respondents

Dr. Milind Sathe, senior advocate along with Mr. D. V. Deokar, Mr. P. Modi, Ms. Anikita Roy i/b. Parimal K. Shroff and Co., advocates for the petitioner.
Mrs. Jyoti Chavan, AGP for the State.

**CORAM : RANJIT MORE &
SMT.SADHANA JADHAV, JJ.**

DATE : 16th APRIL, 2018.

P. C. :

Both respondent Nos.2 and 3 while fixing the stamp-duty did not consider the petitioner's contentions. Some justification for the same is given in the affidavit-in-reply filed on their behalf. However, it is a settled position in law that the reasons cannot be supplied by tendering affidavit after filing the petition. In the above circumstances, Ms. Chavan, learned AGP fairly stated that the impugned order be set-aside and the matter be remanded to the respondent No.3- Collector of Stamps, Andheri, for reconsideration.

2. In view of the concession given by the learned AGP, we allow the petition. Consequently, the impugned orders dated 2nd August, 2016

and 6th October, 2016 passed by the Collector of Stamps, and order dated 1st July, 2017 passed by the Additional Controller of Stamps, are quashed and set-aside and the matter is remanded back to the respondent No.3-Collector of Stamps, Andheri. The respondent No.3 shall adjudicate the stamp-duty in respect of the subject transaction after hearing all concerned independently on its own merits and in accordance with law as expeditiously as possible and preferably within a period of six weeks from the date of receipt of this order.

3. It is made clear that we have not gone into the merits of the matter and all rights and contentions of the respective parties are kept expressly open to be agitated before the concerned authority.

4. The writ petition stands disposed of.

(SMT. SADHANA JADHAV, J.)

[RANJIT MORE, J.]