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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2986 OF 2017

CMS Computers Ltd. ....Petitioner
vs
Dy. Inspector General of Registration And
Deputy Controller of Stamps, Mumbai ...Respondents
.....
Ms. Rita D. Bhatia, for the Petitioner.

Mr. Manish Upadhyay, AGP, for the State.
.....

CORAM : S.C. GUPTE, J.

DATED : 27 MARCH, 2018

P.C. :

. Heard learned Counsel for the parties. Rule. Rule made returnable forthwith by consent of Counsel.

2. This petition challenges an order passed the Deputy Inspector General of Registration And Deputy Controller of Stamps, Mumbai, rejecting an appeal from an adjudicating order passed by Collector of Stamps on 30 January 2017. By the impugned order of 30 January 2017, the Collector of Stamps held three documents submitted for his adjudication, namely, documents dated 23 July 1974, 19 April 1980 and 10 August 1980, as conveyances, purportedly on the ground that the possession of the property under these documents was

transferred or agreed to be transferred to the purchaser before or at the time of execution or after the execution of the agreement. The impugned order holds the documents to be conveyances for that reason. The appellate order of the Deputy Inspector General of Stamps rejects the Petitioner's appeal. It is obvious, and does not countenance any dispute, that the amendment treating the agreement for sale as a conveyance on the basis of the provision therein of possession of the property came into effect on 9 December 1985. On the Respondents' own showing these documents were executed prior to 9 December 1985. The authorities appear to have completely lost sight of this elementary aspect. In the premises, the impugned orders cannot be sustained and will have to be set aside. Accordingly, the petition is allowed by quashing the impugned orders dated 30 January 2017 and 14 August 2017. The matter of adjudication is remanded to the Collector of Stamps to adjudicate the documents without reference to the amendment introduced to the Stamps Act on 9 December 1985.

(S.C. GUPTE, J.)