

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

**CIVIL APPLICATION NO. 449 OF 2019
IN
WRIT PETITION NO. 14044 OF 2016**

Keystone Realtors Pvt. Ltd., ... Applicant/Petitioner.

V/s.

Chief Controller of Revenue Authority,
Pune & Ors. ... Respondents.

Mr. Simil Purohit, Advocate i/by Ms. Deepa Kamath for
the Applicant/ Petitioner.

Mr. S. L. Babar, AGP for Respondent Nos. 1 to 3.

CORAM : UJJAL BHUYAN, J.

DATE : DECEMBER 02, 2019.

PC :

1 Civil Application No. 449 of 2019 is not on Board. Mentioned. Taken up for hearing by consent of the parties.

2 Heard Mr. Simil Purohit, learned counsel for the Petitioner/ Applicant and Mr. S.L.Babar, learned AGP for Respondent Nos. 1 to 3.

3 This civil application has been filed for grant of two prayers viz. (i) for changing the name of

Applicant from “Rustomjee Construction Pvt. Ltd.,” to “Keystone Realtors Pvt. Ltd.”, and (ii) to stay letter of Respondent No.2 dated 13.02.2019 thereby withdrawing the attachment of bank accounts of the Petitioner/ Applicant.

4 It appears that pursuant to the order of this Court dated 26.02.2019, amendment in respect of the name of Applicant has already been carried out. Therefore, the civil application as on today is confined to the second prayer only.

5 Mr. Purohit, learned counsel for the Applicant has referred to the order passed by this Court on 04.09.2017 while admitting the Writ Petition for hearing. He submits that the Applicant has complied with the interim direction of this court by depositing more than 50% of the demanded amount and, therefore, it was not justified on the part of Respondent No. 2 to issue the letter dated 13.02.2019 thereby attaching the three bank accounts of the Applicant with the Punjab National Bank, Linking Road, Bandra West.

6 On the other hand, learned AGP has opposed the interim application. Referring to the affidavit filed on behalf of the Collector of Stamps (Enforcement-1), Mumbai, he submits that the Applicant failed to comply

with the interim directions of this court and since 50% deposit has not been made, impugned letter dated 13.02.2019 had to be issued, thereby attaching the bank accounts of the Applicant.

7 Submissions made by learned counsel for the parties have been considered.

8 Matter relates to levy of stamp duty with interest and penalty for delayed registration of the document relatable to the development project carried out by Applicant. According to the Applicant total demand of stamp duty raised by Respondent No.1 is Rs. 13,95,97,500/- out of which the Applicant has paid a sum of Rs. 7,17,05,810/- towards stamp duty along-with further sum of Rs. 28,68,235/- towards penalty, which is more than 50% of the demand.

9 Learned counsel for the Applicant further submits that not only the Applicant has questioned the demand, as a matter of fact Applicant is entitled to refund of an amount of Rs.3,36,90,200/- for which necessary application has been filed.

10 Interim order dated 4th September, 2017 is extracted hereunder :

“2] Arguable issues are raised. Hence, Rule in all the matters.

3] There shall be a restraint upon the respondent State from making recoveries in terms of impugned orders subject to the petitioners, in each of these cases, depositing 50% of the demanded amounts including penalty, within a period of six weeks from today. Upon deposit, the respondent State, shall be entitled to withdraw the said amount by furnishing an undertaking that such withdrawal shall abide by final orders that may be made by this Court, including, orders with regards to payment of interest. In case, the amount in terms of this order is not deposited within six weeks from today, the interim order now granted shall stand vacated without any further reference to the Court.

4] After pleadings are completed, liberty to the parties to apply for expeditious hearing of these petitions, since, it is submitted that by learned counsel for the petitioners that the issue raised in these petitions is recurrent and will affect large number of parties.”.

11 As it would be evident from the above, Applicant has deposited more than 50% of the demanded amount. If that be so, then stay granted by this court would be in operation. While the stay was in operation, it was not justified on the part of Respondent No. 2 to have issued attachment letter dated 13.02.2019 relating to attachment of 3 bank accounts of the Applicant in the Punjab National Bank, Linking

Road, Bandra (West), Mumbai viz. (i) A/C. No. 82002100072305 (ii) A/C. No. 82002100075506 and (iii) A/C.No.82002100076134.

12 In any view of the matter, the issue raised by the Applicant has been found to be an arguable one by this court and the matter is adjudicated. In such circumstances, Respondent No. 2 ought not to have proceeded ahead and issued the attachment letter.

13 Considering the above and in continuation of interim order passed by this court on 04.09.2017, attachment of the above three bank accounts of the Applicant would stand withdrawn till disposal of the Writ Petition. Letter dated 13.02.2019 shall remain in abeyance till then.

14 Civil Application is disposed of.

(UJJAL BHUYAN, J.)

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