IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2338 OF 2019
IN
WRIT PETITION NO.278 OF 2015

Karan K. Ghosher ..Applicant

IN THE MATTER BETWEEN

Jeetu B. Hinduja & Anr. ..Petitioners
Versus
Corporation Bank & Anr. ..Respondents

Mr. Sidharth Samantarey a/w Vivek Phadke, Advocates for the Applicant.
Mr. Rakesh Singh i/by M. V. Kini & Co., for the Respondent No.1.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 18th DECEMBER, 2019

P.C.

1] The security interest being Flat Nos.6 and 9, Plot No.279, Sector No.28, Vashi, Navi Mumbai belonging to Jeetu B. Hinduja and Deepa B. Hinduja were sold at the instance of Corporation Bank and were purchased by the Applicant – Karan K. Ghosher.

2] In Writ Petition No.278 of 2015 filed by Jeetu B. Hinduja and Deepa B. Hinduja challenging the sale, a settlement was arrived at and the same has been recorded in the minutes of order dated

06.07.2018. Based thereon the Writ Petition filed by the Hindujas was disposed of on 06.07.2018. As per the settlement, on payment of the amounts referred to therein to the auction purchaser, the sale was to be set aside and the amount of stamp duty deposited when the Sale Certificate was presented for registration became liable to be refunded. Unfortunately, the settlement records that the 2nd Respondent in the Writ Petition i.e. the Applicant would be entitled to the refund thereof from Respondent No.1. i.e. Corporation Bank. Learned counsel who drew up the minutes of the order overlooked the fact as regards the revenue, the Collector of Stamps would refund the stamp duty to the one who deposited the money for the stamp papers to be issued or electronically issued i.e. the 2nd Respondent. Learned counsel overlooked the fact that the 2nd Respondent had in fact made the application to the Collector of Stamps. Learned counsel overlooked that the Bank cannot file the application seeking refund of the stamp duty paid.

3] Thus, the instant application is disposed of directing that upon the Applicant submitting an application to the Collector of Stamps, under the strength of the present order, the Collector of Stamps shall refund the stamp duty paid by the Applicant on the Sale Certificate dated 28.03.2013.

SMT. BHARATI DANGRE, J **CHIEF JUSTICE**

Balaji G. Panchal
Digitally signed by Balaji G. Panchal
Date: 2019.12.19 14:38:05 +0530