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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7413 OF 2017

Keystone Realtors Pvt. Ltd.
Through Authorised Signatory
Mr. Shovir P. Irani ….. Petitioner.

V/s

Chief Controlling Revenue
Authority, Maharashtra State
and Anr. …..Respondents.

ALONGWITH
CIVIL APPLICATION NO. 1703 OF 2019
IN
WRIT PETITION NO.7413 OF 2017

Keystone Realtors Pvt. Ltd.
Through Authorised Signatory
Mr. Shovir P. Irani ….. Applicant

In the matter between

Keystone Realtors Pvt. Ltd.
Through Authorised Signatory
Mr. Shovir P. Irani ….. Petitioner.

V/s

Chief Controlling Revenue
Authority, Maharashtra State
and Anr. …..Respondents.

Mr. Simil Purohit I/b Deepa Kamath for the Petitioner/Applicant.
Mr. S.H. Kankal, AGP for Respondent No.1.

CORAM : NITIN W. SAMBRE, J.

DATED : AUGUST 6, 2019

P.C.:

1] Heard the learned Counsel for the Petitioner.

2] Petitioner entered into an agreement of purchase of 16,74,559 sq.ft. of FSI, of which market valuation was Rs 173 crores, as against the actual consideration agreed of Rs 200.11 crores. The said agreement came to be executed and registered on 09/12/2008, after payment of stamp duty pursuant to valuation carried by the authority.

3] The Petitioner claims to have cancelled the said agreement having regard to the existing adverse market conditions and proposed to purchase the land to the extent of an area of 4,41,605.50 sq. mtrs. This second agreement was registered on 20/03/2009 in which, I am informed, that there is a reference to the cancellation of earlier transaction of purchase of FSI pursuant to the agreement dated 09/12/2008.

4] The FSI to the extent of 16,74,559 sq.ft, which Petitioner also agreed to purchase vide agreement dated 9/12/2008 was to be exhausted on the land admeasuring 1,55,628.15 sq. mtrs, which is not owned by or vested in the Petitioner.

5] The respondent-authority, while saddling the petitioner with penalty for recovery of deficit stamp duty, has considered valuation of land to the extent of 1,55,628.15 sq.mtrs, over which the FSI was to be exhausted by the Petitioner and subsequently cancelled. The process of valuation undertaken by the Respondents is based on an audit objection and the expert adviser attached to the Office of the Respondents while carrying out valuation has concurred with the procedure of valuation adopted. What can be noticed is, instead of adjusting the valuation of FSI which was purchased by the Petitioner and latter on cancelled, the valuation of the area over which such FSI was to be exhausted has been considered for levying penalty on deficit stamp duty.

6] When the Assistant Government Pleader is called upon to explain the aforesaid anomaly which prima facie appears to be illogical, he seeks time to take instructions of an expert officer.

7] In view of above, stand over to 4th September, 2019. Interim protection ordered by this Court shall continue to operate in favour of the Petitioner, subject to the Petitioner/Applicant furnishing Bank Guarantee within a period of three weeks from today.

8] For the reasons stated in the Civil Application, delay of 58 days in filing the Civil Application is condoned. Civil Application stands disposed of.

(NITIN W. SAMBRE, J.)