

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1440 OF 2019

1. Madanlal P. Jain & Ors. ... Petitioners.

V/s.

State of Maharashtra & Anr. ... Respondents.

Mr. Kishore Jain, Advocate a/w. Dileep Satale i/by Divya Jain
& Priyal Chheda for the Petitioners.

Mr. A. L. Patki, Additional Government Pleader for the State-
Respondent Nos. 1 & 2.

CORAM : R.M.BORDE & N.J.JAMADAR, JJ.

DATE : JUNE 20, 2019.

PC :

1 The Petitioners are objecting to the order passed by the Collector of Mumbai (City), directing the Petitioners to deposit transfer charges, amounting to Rs. 31,56,631.96/- on consideration of the value of the property, in reference to the ready reckoner rates, to be Rs. 5,26,00,000/-. The Petitioners contend that they have purchased the property in an auction sale conducted by the Income Tax Department for a sum of Rs. 3,45,00,000/- and as such the liability to pay transfer charges, on the basis of the purchase value, could be Rs. 20,70,000/-. It is not the matter of dispute that while issuing directions to the Petitioners on 17.01.2019, the Petitioners have not been extended an

opportunity of hearing by the Collector and District Magistrate, Mumbai City.

2 Under these circumstances, it is desirable that the order issued by the Collector, impugned in this petition, be treated as a Notice and the Petitioners shall be extended an opportunity of hearing and that thereupon the Collector Mumbai City shall pass appropriate order, determining the liability of the Petitioners to deposit the transfer charges.

3 In the meanwhile, the Petitioners shall deposit transfer charges on consideration of value of the property, paid by him during auction proceedings conducted by the Income Tax Department, which liability is quantified as Rs.20,70,000/-, with the Collector Mumbai City. The Petitioners shall deposit the amount within a period of eight weeks from today. On deposit of the amount by the Petitioners, the Collector shall extend opportunity of hearing to the Petitioners and take final decision in the matter.

4 As has been recorded above, the order dated 17.01.2019 shall be treated as a Notice for determination of liability in respect of the payment of the transfer charges by the Petitioners. On deposit of the amount of Rs. 20,70,000/- by the Petitioners with the Collector Mumbai City, the concerned authority shall issue N.O.C. for registration of the documents and it would be open for the

Petitioners to take steps for registration of the document. It is needless to record that in the event the Collector determines the liability of the Petitioners over and above the amount directed to be deposited, the additional liability so determined would be recoverable in accordance with the provisions of law. It would also be open for the Petitioners to challenge the order of determination by the Collector, as permissible in law.

5 In view of the above, the Petition is disposed of.

(N.J. JAMADAR, J.)

(R.M. BORDE, J.)

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