

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3454 OF 2018**

Seema Construction Co. ...Petitioner

Versus

State of Maharashtra & ors. ...Respondents

Mr. Amit Karle, a/w Mr. Vishal Kanade, Ms. Gauri Joshi, i/b
S. K. Legal Asso., for the Petitioner.

Mr. Manish Upadhye, AGP for the State/Respondents.

CORAM: N. J. JAMADAR, J.

DATED : 5th DECEMBER, 2019

PC:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order passed by the Chief Controlling Revenue Authority on 10th May, 2018 in Revenue Case No.121 of 2014, whereby the authority has passed the following order:

- “1. Deed of Conveyance executed by Non-Applicant on 12/04/2012 involved in Adjudication Case No.Adj/SDE/NEW/385/2012 is short levied with stamp duty of Rs.1,29,36,425/- (Rupees One Crore Twenty Nine Lakh thirty Six Thousand Four Hundred Twenty Five Only) and is liable for penalty of Rs.5,17,452/- (Rupees Five Lakh Seventeen Thousand Four Hundred Fifty-two only).
2. Non-Applicant to pay Rs.1,29,36,425/- (Rupees One Crore Twenty Nine Lakh Thirty Six Thousand Four Hundred Twenty Five Only) and is liable for penalty of Rs.5,17,452/- (Rupees Five Lakh Seventeen Thousand Four Hundred Fifty Two only) against penalty within a period of 10 days from date of receipt of this order or otherwise further penalty as per law.
3. Collector of Stamps, Enforcement II, Mumbai to certify document on payments as above.”

3. The initial demand was made by the Collector of Stamps vide communication dated 30th June, 2014.

4. Being aggrieved by the determination of the stamp-duty by the Adjudicating Authority in respect of Deed of Conveyance dated 12th April, 2012, in Adjudication Case No.Adj/SDE/NEW/385/2012, the petitioners had preferred the above numbered revision, which came to be dismissed by the impugned order directing the petitioner to pay the stamp-duty of Rs.1,29,36,425/- and penalty of Rs.5,17,452/-.

5. The initial demand was of deficit stamp-duty of Rs.36,33,512/- with penalty of Rs.1,45,340/-. In the revisional proceeding, the revisional authority has banked upon the valuation report submitted by the Joint Director of Town Planning (Valuation), wherein the valuation of the property in question was reckoned as 27,39,88,500/-.

6. It was urged on behalf of the petitioners that the revisional authority has not assigned any justifiable reason to accept the valuation submitted by the Joint Director, Town Planning.

7. As the initial demand was of Rs.36,33,512/-, the petition can be conveniently disposed of by directing the revisional authority to consider the revision application afresh, especially with regard to the objection raised by the petitioners in respect

of the valuation arrived at by the Joint Director, Town Planning (Valuation) and, in the meanwhile, direct the petitioners to deposit the amount of initial demand without prejudice to its rights and contentions.

8. The petitioner as well as the learned AGP, on instructions, are agreeable to this proposition. Hence, the following order.

: Order :

- (i) The petition stands allowed.
- (ii) The impugned order stands quashed and set aside.
The revision application is remitted back to respondent no.2 for afresh consideration, after providing an effective opportunity of hearing to the petitioner, especially with regard to the propriety and correctness of the valuation arrived at by the Joint Director, Town Planning (Valuation).
- (iii) The petitioners shall deposit the amount of Rs.36,33,512/- within six weeks from today, without prejudice to its rights and contentions.
- (iv) The Revisional Authority shall make an endeavour to decide the revision application within eight weeks from the date of deposit of the above amount.

9. It is hereby made clear that this Court has not considered the merits of the matter and all contentions of the parties are kept open for being considered by the Revisional Authority.

10. All concerned to act on an authenticated copy of this order.

[N. J. JAMADAR, J.]