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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 6053 OF 2014

Mapletree Property Pvt. Ltd. … Petitioner
Vs.
Inspector General of Registration
(Chief Controller Revenue Authority) Pune & Ors.… Respondents

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Mr. Vishal Kanade, Pooja Shroff i/b Abhijeet C. Mahadeokar, for the Petitioner.

Mr. P. P. Pujari, AGP for Respondent Nos. 1 and 3.

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CORAM : C. V. BHADANG, J.

DATE : FEBRUARY 4, 2020

PC :

1. The challenge in this petition is to the order dated 12th September, 2013 passed by the first Respondent, refusing to condone the delay in filing an appeal, challenging the order dated 30th March, 2010 passed by the second Respondent, Collector of Stamps.

2. The brief facts are that, the Petitioner had purchased stamps, worth Rs. 23,75,000/- on 23rd December, 2006 for executing a deed of assignment. According to the Petitioner, the deed of assignment never materialised. The Petitioner, therefore, approached the second Respondent under S. 47 read with S. 48 of the Bombay Stamp Act (for short the "Act") on 30th January, 2008 seeking refund of the stamp duty. The second Respondent rejected the application on

Vinayak P. Halemath

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30th March, 2010, on the ground that the application was barred by limitation, and was filed beyond the period, as prescribed in Section 48 of the said Act.

3. It is not in dispute that the order passed by the second Respondent is appealable before the first Respondent under S. 53(1A) of the said Act. However, the Petitioner claims that under a bona fide belief, the Petitioner approached the State Government with an appeal, purportedly under S. 53 of the said Act. The record discloses that the application in the form of appeal was filed before the Hon'ble Minister (Revenue) on 18th June, 2012. The Hon'ble Minister by an order dated 13th December, 203 intimated that the appeal is not maintainable, and the Petitioner has to approach the first Respondent. It is after this, that the Petitioner filed an appeal before the first Respondent on 16th January, 2013 alongwith an application for condonation of delay. That application has been dismissed by the first Respondent by the impugned order.

4. I have heard Mr. Vishal Kanade, the learned counsel for the Petitioner, and the learned AGP for the Respondent-State. Perused record.

5. It is submitted by the learned counsel for the Petitioner that the period from 30th March, 2010 to 16th January, 2013 is liable to be condoned / excluded under the provisions of S. 5 read with S. 14 of

the Limitation Act. It is submitted that the Petitioner was *bona fide* prosecuting the appeal before a wrong forum, viz. the Hon’ble Minister (Revenue) and the period spent in prosecuting the said appeal is required to be excluded. Insofar as the period from 30th March, 2010 to 18th June, 2010 is concerned, the learned counsel has pointed out that the same has been explained in the application filed by the Petitioner, making out a sufficient cause. The learned counsel has pointed out that after receipt of the letter dated 30th December, 2012 from the Hon’ble Minister (Revenue), the Petitioner immediately approached the first Respondent on 16th January, 2013 and thus, there are no laches on the part of the Petitioner in filing the appeal.

6. The learned AGP has supported the impugned order. It is submitted that there is gross delay and laches on the part of the Petitioner on both counts, viz. when the application was filed before the second Respondent; and also in filing the appeal.

7. I have considered the circumstances and the submissions made. It is not necessary to go into the question whether the original application was filed within limitation or not, inasmuch as the only order, which is subject matter of challenge is about refusal by the first Respondent to condone the delay in filing the appeal. The delay comprises of two parts, viz. (i) for the period from 30th March, 2010 to 18th March, 2012; and (ii) from 18th March, 2012 to 13th December,

2012. Even assuming for the sake of argument that the later period, which is only of six months can be excluded under S. 14 of the Limitation Act, I do not find that there is any acceptable explanation for delay of about 2 years and 3 months in filing the appeal, albeit, before a wrong forum. There is no acceptable explanation in making out sufficient cause for the delay from 30th March, 2010 to 18th March, 2012. Although, it is contended that the said appeal was filed on 24th January, 2011, the record indicates otherwise. The copy of the appeal, which is at page 38 of the compilation shows that it is acknowledged in the office of the Hon'ble Minister (Revenue) on 18th June, 2012. Looked from any angle, I do not find that the Petitioner has made out sufficient cause for condonation of delay. The impugned order does not suffer from any infirmity, requiring interference in exercise of supervisory jurisdiction of this Court. The petition is without any merit and it is dismissed, with no order as to costs.

Sd/-
C. V. BHADANG, J.