

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6490 OF 2022

Kesari Janardan Foka And Anr.

...Petitioners

v/s.

The Collector Of Stamps & Ors.

...Respondents

Ms. Shivani S. Kunder for Petitioner.

Mrs. S. S. Bhende, AGP for State.

**CORAM : S.V. Gangapurwala &
R.N.Laddha, JJ.**

DATE : 14th September 2022

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1. The Petitioner is challenging the correctness of the order levying ten times penalty on the decree filed before the Sub-Registrar for Registration.

2. We have heard the learned counsel for the Petitioner and the learned AGP for State.

3. The Affidavit is filed by the incharge Joint sub-Registrar, Andheri (1), Mumbai Suburban, District Mumbai. In the affidavit, he contents that as the final decree was not lodged within four months, the Petitioner is liable to pay ten times penalty.

4. The chronology of the events has been given by the incharge Joint sub-Registrar in the affidavit. The same is as under:-

Sr. No.	Date	Events
1	20.04.2017	Final Decree was passed by the City Civil Court, Mumbai in S. C. Suit No. 8565 of 2002.
2	05.07.2017	The Petitioners lodged the said Decree for payment proper stamp duty on the said final Decree.
3	15.11.2017	The Stamp Office, Mumbai adjudicated the said final Decree.
4	19.12.2017	The Petitioners lodged the said final Decree for registration in my office.

5. Perusal of the aforesaid chart, it is manifest that the final decree was passed on 20th April, 2017. The Petitioner lodged the said decree for payment of proper stamp duty on 5th July, 2017. The stamp officer adjudicated the stamp duty on 15th November, 2017 and on 19th December, 2017 the Petitioner lodged the said final decree for registration.

6. The Petitioner could not present the documents for registration as the stamp officer did not adjudicate the stamp duty upon the same. In fact, the Petitioner had lodged the decree within 2 ½ months with the stamp officer. It is only after the stamp officer adjudicated the amount of the stamp duty payable, the Petitioner lodged the same within one month.

7. In the light of the above, it is cannot be said that the Petitioner is solely responsible for the delay caused.

8. In light of that the impugned order to the extent of ten times penalty is set aside.

9. In case the Petitioner had deposited the ten times penalty, the said amount be refunded the Petitioner within six months.

10. Writ Petition stands disposed of. No costs.

(R.N.Laddha, J)

(S. V. Gangapurwala, J)