

Urmila Ingale

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

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PUBLIC INTEREST LITIGATION NO. 59 OF 2022

Krishna Mohan Jadhav	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

Mr. Sandeep M. Phatak, for the Petitioner.

Mr. P. P. Kakade, GP a/w Mr. B.V. Samant, AGP for
the Respondent - State.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: APRIL 4, 2022

P.C.:

1. This petition filed in public interest under Article 226 of the Constitution of India seeks the following substantive relief:

(A) That this Hon'ble Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India, 1950, quashing and setting aside the impugned notification dated 14th June 2021 [Exh-A] issued by the respondent no.1.

(B) That this Hon'ble Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India, 1950, directing the respondents to refund the registration fees collected in excess to the borrowers immediately within a period of 4 weeks.

2. The facts pleaded in the PIL petition are briefly stated hereafter. The petitioner is an advocate practicing in Pune. He expresses a concern that the respondent no. 1 - the State of Maharashtra by issuing the impugned notification dated June 14, 2021 (hereafter 'said notification', for short) has exorbitantly increased the rates of registration fees in an arbitrary manner. The petitioner contends to have *locus standi* to challenge the said notification as the poor people cannot afford to agitate the said issue before this Court. The said notification is challenged by the petitioner on various grounds set out in the PIL petition. In his challenge to the said notification, the petitioner is concerned with the registration of mortgage by deposit of title deeds in which respect the registration fees for the notice of intimation is increased exorbitantly 15 times, from Rs. 1,000/- to Rs. 15,000/-.

3. The said notification dated June 14, 2021 reads thus:

" **NOTIFICATION**

REGISTRATION ACT, 1908,

No. RGN-2019/1561/C.R.No.417/M-1 (Dhoran).- In exercise of the powers conferred by clause (a) of section 78 of the Registration Act, 1908 (XVI of 1908), in its application to the State of Maharashtra, and of all other powers enabling it in that behalf, the Government of Maharashtra hereby, amends the Table of Fees prepared under section 78 and published under the Government Notification, Revenue Department, No. RGN-1558/67731-N, dated the 17th July 1961 (hereinafter referred to as the "said Notification"), for registration of instruments and publishes the same as required by section 79 of the said Act, as follows, namely :-

In the said Notification, in Table of Fees.

(i) in Article1,-

(a) in clause (2), the words, brackets and figures "Mortgage (See Notes 1 and 2 below)" shall be

deleted ;

(b) after clause (4), the following shall be added, namely :-

"(5) The registration fees in case of mortgage (See Notes and and 2 below) and notice of intimation of mortgage by depositing title deeds under section 89B of the said Act shall be levied at the rate of 0.5 per cent of the amount secured by such instrument, subject to maximum of fifteen thousand rupees."

(c) after Note 67, the following note shall be added, namely :-

"Note 68.- No registration fees shall be chargeable on filing of any copies of court decrees or orders or any type of document or instrument specified in section 89A of the said Act when received from the Court or the officers specified in the said section 89A."

(ii) Article XA shall be deleted.

By order and in the name of the
Governor of Maharashtra

SHRIDHAR DUBE-PATIL
Joint Secretary to Government."

4. We have heard learned advocate for the petitioner. We are not inclined to entertain the PIL petition at the instance of the present petitioner. In exercise of powers conferred by Section 78 of the Registration Act, 1908, the respondent no.1 amended the Table of Fees prepared under Section 78 and published under the Government Notification dated July 17, 1961, for registration of instruments. The registration fees for the notice of intimation which was then fixed at Rs. 1,000/- has been increased to Rs.15,000/-. In fact, the registration fees are to be levied at the rate 0.5% of the amount secured by such instrument (mortgage deed) subject to maximum of

Rs. 15,000/-. The petitioner in paragraphs 35 and 36 has submitted thus:

"35. The petitioner submits that mainly the buyers of lower and middle level properties are affected due to this Notification. The petitioner submits that even if the registration fee for the Mortgage Intimation is capped at Rs. 15,000/-, the amount is substantial for the EWS, LIC and MIG categories, for which the Central Government as well as the Government of Maharashtra have floated the housing policies.
36. The petitioner submits that people from these categories are already struggling to arrange funds for the houses, now by way of the impugned Notification, extra burden of Rs.15,000/- is put when the said fee was only Rs.1,000/-."

5. The petitioner claims to be an advocate practicing in Pune. The petitioner does not provide any empirical data to substantiate his stand that poor people cannot afford to agitate the said issue before this Court. As can be seen from the averments in paragraph 35, the petitioner submits that mainly the buyers of lower and middle level properties are affected due to this notification. The petitioner has not placed any details on record as to the nature of the transactions and purchase price of the lower and middle level properties to demonstrate that the cap of Rs.15,000/- is so exorbitant or arbitrary, that it calls for our intervention. There is no material in this PIL petition placed on record for us to come to the conclusion that the petitioner is really espousing the cause of the poor people. The petitioner has averred that he is practicing in various registration offices in Pune district and does the work of registration of various documents viz. sale

deeds, lease deeds, development agreements, power of attorney, mortgage deeds etc. in various offices of Sub-Registrar. It is common knowledge that property prices in Pune are high even in respect of properties of lesser dimensions.

6. In such circumstances, it is always open for the affected party or someone demonstrating a genuine concern to challenge the notification after furnishing at least some basic data. We, therefore, do not entertain the present PIL petition at the instance of the petitioner.

7. The PIL petition stands dismissed. No order as to costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)