

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2436 OF 2023

Pritam Bharat Solanke

... **Petitioner**

Versus

The State of Maharashtra & Ors.

... **Respondents**

...

Mr. U. B. Deshmukh h/f Mr. Dhanraj P. Munde – Advocate for petitioner

Mr. K. B. Jadhavar – AGP for respondent/State

....

CORAM : KISHORE C. SANT, J.

DATE : 31ST JULY, 2023

PER COURT :

1. The petitioner challenges an order dated 20.01.2023 issued by the Collector of Stamps, Latur directing the Tahsildar, Chakur, Tq. Chakur, Dist. Latur, to charge stamp duty on the instrument of compromise entered into between the parties before the court and to show the charge of stamp duty in the revenue entries / properties. This order is passed in pursuance of the order dated 04.04.2022 passed by the same authority asking the petitioner to pay an amount of Rs. 57,900/- towards stamp duty with penalty of Rs.2316/-, totaling Rs. 60,216/-. It is also mentioned in the said order that, if the petitioner is dissatisfied with the said order, he can

approach the Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune, as per Section 53(1) of the Maharashtra Stamps Act.

2. At the very outset, learned AGP points out that the petitioner has an alternate remedy available to approach the appellate authority i.e. Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune, as is referred to in the impugned order dated 04.04.2022. The petitioner instead of approaching the said authority has directly approached this Court.

3. Learned counsel for the petitioner submits that, petitioner had filed R.C.S. No. 169/2021 in the Court for partition against his mother and siblings. The said suit was settled between the parties amicably and compromise decree was passed by the Civil Judge, Junior Division, Chakur. Respondent no. 2 thereafter sent a notice to the petitioner thereby holding the petitioner is defaulter in payment of stamp duty. He submits that, since the law is well settled that the property received by the coparcener in the partition of joint Hindu family property is not a transfer and, therefore, registration of transfer deed is not necessary. In support of this submission, he placed

reliance upon the judgment delivered by the Division Bench of this Court at Principal Seat in the case of **Barshi Bar Association Versus State of Maharashtra and others** reported in 2023 SCC Online Bom 585.

4. Since this Court finds that the order impugned in the petition is appealable order, it would not be appropriate to call for interference in the petition. The learned counsel for the petitioner, therefore, seeks leave to withdraw the petition with liberty to approach the authority concerned. He further submits that the time spent in prosecuting this matter needs to be considered by the authority, where the appeal would be filed.

5. **Petition stands disposed of as withdrawn with liberty to approach the appellate authority.** Needless to state, that the authority before which the appeal would be filed, shall consider the time spent in prosecuting the instant petition while considering the prayer for condonation of delay in filing the appeal.

6. It is made clear that this Court has not expressed any opinion on the merits of the matter.

7. All the points are kept open.

[KISHORE C. SANT]
JUDGE