

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

WRIT PETITION NO. 11354 OF 2017

Ajit Shantilal Surana ... Petitioner
Age:- 53 Years, Occu:- Trading &
Agriculture
R/o. Gawali Galli, Barshi
District:-Solapur.

vs.

- 1 The Chief Controlling Revenue
Authority,
Maharashtra State, Pune.
- 2 The District Collector of Stamps,
Solapur.
- 3 Additional District Registrar Class-1, ... Respondents
Solapur.

Mr.Sarthak Diwan i/b. Mr.Ashutosh M. Kulkarni for the
Petitioner.

Mr. P.P. Pujari, AGP for the Respondent-State.

CORAM : SANDEEP V. MARNE, J.

DATED : 6 JANUARY, 2023

ORAL JUDGMENT :-

1. Rule. Rule made returnable with consent of the parties.
2. By this Petition, the petitioner challenges order dated 9th
March, 2015 passed by the Deputy Inspector General of
Registration and Deputy Controller of Stamps, Pune Division,
Pune, rejecting the Appeal filed by the petitioner under the

provisions of Section 32 of the Maharashtra Stamp Act, 1958 (for short, “the Act”), essentially on the ground that the Appeal was filed beyond the period of limitation of 60 days. In the Appeal, the petitioner challenged the provisional order dated 24th April, 1994 as well as the final order dated 22nd December, 1997. The Appeal was filed after long delay on 24th December, 2014 supported by an Application seeking condonation of delay.

3. In Application for condonation of delay, the petitioner specifically averred that the final order dated 22nd December, 1997 was not served upon him and that he was unaware of such order being passed. It was further averred that the petitioner had received auction notice dated 28th October, 2014 after which he applied for certified copy of the order and discovered that the final order had been passed on 22nd December, 1997. With these averments, delay in filing the Appeal was sought to be condoned.

4. Perusal of order dated 9th March, 2015 passed by respondent no.1 shows that respondent no.1 has proceeded to ignore the aforesaid pleaded case of the petitioner in his

application for condonation of delay. Respondent No.1 has refused to condone the delay by making observations that the Appeal was required to be filed within a period of 60 days under the provisions of Section 32B of the Act and there was delay of 17 long years. On the basis of these observations, respondent no.1 has held that the merits of Appeal cannot be considered.

5. Perusal of order dated 9th March, 2015 passed by respondent no.1 shows that there has been non application of mind on part of respondent no.1 to the vital contentions raised by the petitioner that the final order dated 22nd December, 1997 was never served upon him.

6. There is one more aspect highlighted by Mr. Diwan, learned advocate for the Petitioner who invites my attention and the final order dated 22nd December 1997. Mr. Diwan would contend that the column relating to the dates of notice have been left blank. On this basis, Mr. Diwan contends that the final order dated 22nd December, 1997 itself is demonstrative of the fact that the notices in the matter were never served on the petitioner. Though, this aspect is not

specifically highlighted in the Application seeking condonation of delay, the same would obviously have a bearing on the issue relating to the condonation of delay.

7. In the result, the order passed by respondent no.1 on 9th March, 2015 rejecting the petitioner's Appeal is unsustainable, and the same is set aside. The petitioner's Application for condonation of delay so also Appeal No.29 of 2014 stands restored before respondent no.1. The petitioner will be at liberty to file an additional affidavit in support of Application for condonation of delay. Respondent No.1 shall hear the parties a fresh and pass fresh order on the petitioner's Application for condonation of delay. In the event, respondent No.1 proceeds to condone the delay, Appeal No.29 of 2014 can be taken for hearing on merits.

8. With the above observations, Writ Petition is allowed. Rule is made absolute.

(SANDEEP V. MARNE, J.)