Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

LETTERS PATENT APPEAL NO. 143 OF 2010
IN
WRIT PETITION NO. 4084 OF 2009

M/s. Aakash-Lavlesh Leisure Pvt Ltd. & Anr. ....Appellant
V/S
The State of Maharashtra & Ors. ....Respondent

....

Mr. Anil Mishra i/b. Punam Shinde for Appellants.

Mr. A. I. Patel AGP a/w. Mr. K. S. Thorat AGP for respondent-state.

....

CORAM : K. R. SHRIRAM &
RAJESH S PATIL, JJ.

DATED : 23rd FEBRUARY 2023

P.C.:

1. With the assistance of Mishra, we considered the order dated 25th March, 2009 passed by the Additional Controller of Stamps and also the impugned order and judgment dated 10th March, 2010.

2. Two issues that come up for determination are :-

(a) Whether the stamp duty is chargeable on the consideration paid pursuant to the auction conducted by the Charity Commissioner?

(b) Whether the stamp duty payable should be based on the date of execution of the instrument?

If the answer to issue (b) is affirmative, what should be the value on which stamp duty will be payable?

3. In the order passed by the Additional Controller of Stamps he has proceeded on the basis that the stamp duty will be payable on the date of execution of the instrument at the market value as determined by him. We do not find any basis for him to at arrive at the market value market value figure of Rs. 7,00,51,500/-.

4. In the circumstances, we quash and set aside both the impugned order as well as the order passed by the additional controller of stamps on 25th March 2009 and remand the matter for reconsideration. The Additional Controller of Stamps shall answer the issues mentioned above with reasons.

The issues mentioned above are only indicative and not exhaustive.

5. Before passing any reasoned order, he shall give a personal hearing to appellant, notice whereof shall be communicated at least 7 working days in advance.

6. Should appellant wish to file written submission recording what transcribed during the personal hearing, the same to be filed within 5 working days of the personal hearing.

7. Additional Controller of Stamps shall dispose the matter within eight weeks from today.

8. Appeal disposed. No costs.

9. Whatever amount the Appellant has paid, will be given credit to in the order to be passed.

(RAJESH S. PATIL, J.) **(K. R. SHRIRAM, J.)**