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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 7301 OF 2023**

Martand Bhairav Pvt. Ltd.

....Petitioner

V/s

State of Maharashtra and Anr.

.....Respondents.

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Dr. Abhinav Chandrachud a/w Mr. Hrushi Narvekar, Mr. Rohit Halwani, Mr. Kartikeya Desai and Ms. Sayli Shinde i/b Kartikeya & Associates for the Petitioner.

Ms. Ashwini A. Purav, AGP for Respondent-State.

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**CORAM: A.S. CHANDURKAR &  
FIRDOSH P. POONIWALLA, JJ**

**DATE: 18th DECEMBER, 2023**

P.C.:-

1] The challenge raised in this Writ Petition filed under Article 226 of the Constitution of India is to the show cause notice dated 31/03/2023 that has been issued by the Sub-Registrar, Class-I, Vadgaon, Maval to the Petitioner, a Private Limited Company, calling upon it to pay deficit stamp duty on the Power of Attorney that was duly registered on 13/09/2022.

2] It is not necessary to refer to the facts in detail for the reason that in response to the show cause notice dated 31/03/2023 as well as the subsequent communication issued by the same Office on 27/04/2023, the Petitioner submitted its reply on 04/05/2023. As per the said reply, the document of Power of Attorney dated 13/09/2022 stood cancelled subsequent to its execution and registration. It was further stated that the document of Power of Attorney did not amount to any “conveyance” within the meaning of Explanation-I to Article 25 of the Maharashtra Stamp Act, 1959. Reference was made to various decisions of this Court to substantiate the stand taken in reply. After receiving the said reply, the Sub-Registrar, Class-I on 16/05/2023 submitted a Report to the Joint District Registrar, Pune, Rural, stating therein that in the light of the reply, as filed, the document of Power of Attorney could not be treated as a document of “conveyance” and that subsequently the said document had been cancelled. Acting on the said Report, the Joint District Registrar on 09/06/2023 sought an opinion of the 2<sup>nd</sup> Respondent – Inspector General of Registration and

Controller of Stamps. The Joint District Registrar was also of the view that the document of Power of Attorney was not a conveyance. It is in this backdrop that a challenge has been raised to the show cause notice dated 31/03/2023.

3] Reply has been filed by the Respondents referring to the aforesaid events. In paragraph 7 of the said affidavit-in-reply filed by Shri Pravin Sharadchandra Deshpande, Joint District Registrar and Controller of Stamps, Pune, it has been stated that the view expressed initially by the Sub-Registrar, Class-I and thereafter by the Joint District Registrar did not appear to be irrelevant. In other words, the 2<sup>nd</sup> Respondent appears to have concurred with the view expressed by the Joint District Registrar. In that view of the matter, we find that since the document of Power of Attorney did not intend to transfer any rights in the subject property and that the said document came to be subsequently cancelled, there is no reason whatsoever to proceed further with the show cause notice dated 31/03/2023. The Sub-Registrar, Class-I who issued the show cause notice being of the view that the transaction was

not one of conveyance, we are inclined to allow the Writ Petition in terms of prayer clause (a) which reads as under:-

“(a) that this Hon’ble Court be pleased to issue a Writ of Certiorari or Writ in the nature of Certiorari or any other appropriate Writ and/or direction calling for the record and/or files in relation to the said Show Cause Notice dated 31<sup>st</sup> March, 2023 being Exhibit “G-1” hereto and the said letter dated 27<sup>th</sup> April, 2023 being Exhibit “I-1” hereto and after examining the legality and validity of the same quash and/or set aside the said Show Cause Notice dated 31<sup>st</sup> March, 2023 read with the said letter dated 27<sup>th</sup> April, 2023 addressed by Respondent No.2 to the Petitioner.”

4] By clarifying that this Court has not examined the stand of the respective parties with regard to First Information Report No.0215 of 2022, the Writ Petition is allowed in the aforesaid terms with no order as to costs.

**[ FIRDOSH P. POONIWALLA, J.]      [ A.S. CHANDURKAR, J.]**