

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10209 OF 2018

M/s. Vivanta Realty

...Petitioner

V/s.

The State of Maharashtra & anr.

...Respondents

Mr. Atul Damle i/by. Mr. Vaibhav Ugle, for the Petitioner.

Mr. A.P. Vanarase, AGP for Respondent Nos. 1 to 5.

CORAM : SANDEEP V. MARNE, J.

DATED : 12 DECEMBER 2023.

P.C. :

1) By the present petition, Petitioner challenges Order dated 29 June 2018 passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune (**CCRA**) rejecting Petitioner's Appeal preferred against the Order dated 12 July 2016 passed by the Collector of Stamps, Pune City. The dispute is with regard to payment of stamp duty on the Development Agreement/Joint Venture Agreement dated 30 December 2013. Petitioner has paid stamp duty on market value of the property on

the Joint Venture Agreement. The Respondents have treated the document as a Joint Venture Agreement between the owner and the developer and has proceeded to determine the stamp duty by taking into consideration the market value of the flats which would be constructed in pursuance of the Joint Venture Agreement.

2) Mr. Damle, the learned Senior Advocate appearing for the Petitioner invites my attention to the Deed of Cancellation executed on 21 January 2016 by which the Joint Venture Agreement dated 30 December 2013 has been cancelled. He would further submit that in pursuance of cancellation of the Joint Venture Agreement, the Petitioner filed application for refund of the stamp duty and since the request is rejected, petitioner has filed Writ Petition No. 6213 of 2017 in this Court which is pending.

3) Perusal of the order passed by the CCRA would indicate that the aspect of cancellation of the Joint Venture Agreement vide Deed of Cancellation dated 21 January 2016 is recorded in para-5.2 of the Order. However, there is no consideration to this aspect by the CCRA. Whether Petitioner would be entitled to refund of original stamp duty of Rs.51,94,500/- owing to execution of Deed of Cancellation dated 21 January 2016 is an altogether different issue which can be decided in Writ Petition No. 6213 of 2017. However, since the Agreement itself is

cancelled, there is no question of the Respondent demanding higher stamp duty and directing the Petitioner to pay additional stamp duty of Rs.53,52,731/-.

4) The present petition is accordingly **disposed of** by setting aside the Orders dated 29 June 2018 passed by the CCRA, as well as the Order dated 12 July 2016 passed by the Collector of Stamps, Pune. However, it is clarified that this Court has not decided Petitioner's entitlement or otherwise to claim refund of the stamp duty paid on the Joint Venture Agreement dated 30 December 2013. Since the Orders dated 29 June 2018 and 12 July 2016 are set aside, all consequential actions taken by the Respondents also stand set aside.

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SANDEEP V. MARNE, J.