

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3321 OF 2021

Pankaj Enterprises,]
A registered partnership concern,]
having its registered office at 124, Gokul Arcade,]
CTS No.173A, Swami Nityanand Road,]
Vile Parle (East), Mumbai 400 057.]
Represented through its Designated Partner :]
Mr. Nirmal S. Patel] .. Petitioner

Vs.

1. State of Maharashtra,]
Through Revenue and Forest Department,]
Madame Cama Road, Mantralaya, Mumbai 400032.]
2. Inspector General of Registration and Controller]
of Stamps,]
New Administrative Building, Ground Floor,]
Opp. Vidhan Bhavan, Pune 411 001.]
3. Collector of Stamps, Kurla]
New Administrative Building, Ground Floor,]
R.C. Chemburkar Marg, Chembur, Mumbai 400 071.]
4. Sub-Registrar of Assurance, Kurla,]
New Administrative Building, R.C. Chemburkar Marg,]
Chembur, Mumbai 400 071.] .. Respondents

Mr. Rahul Arora, with Mr. Santosh Pathak, Mr. Nimish Lotlikar and Mr. Kailash Pathak, for the Petitioner.

Mr. Milind More, Addl. G.P. for the Respondents-State.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 9TH OCTOBER, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. Heard learned counsel for the petitioner and learned AGP for the respondent-State. Perused the averments made in the petition and the documents filed on record as also reply of respondent no.4.

2. Rule. Rule is made returnable forthwith. Heard finally, by consent of learned counsel for the parties.

3. We find that the requirement of Section 23 of the Registration Act, 1908 is of presentation of document for registration within a period of four months from the date of its execution and nothing more.

4. In the present case, it is the contention of the petitioner that it had presented the document i.e. Deed of Assignment dated 13th May 2016 on the same day of 13th May 2016 for its registration before respondent no.4. It is the further case of the petitioner that because respondent no.4 directed the petitioner to get the stamp-duty adjudicated upon, the petitioner applied for adjudication of the same on 13th May 2016 and the process of adjudication required some time, as the order of the Adjudicating Officer was appealed against and the adjudication attained finality by the order passed by respondent no.3 on 21st June 2021. It is also the case of the petitioner that after 21st June 2021, the petitioner presented once again the Deed of Assignment for its registration on 28th July 2021. Thus, the case of the petitioner is that, firstly, there is presentation of a document in time and, secondly, even if there is a

delay in presentation, that delay would have to be condoned as the petitioner was required to spend time in obtaining final adjudication regarding payment of stamp-duty from the competent authority.

5. As stated earlier, the requirement of Section 23 of the Registration Act is only of presentation of document for registration within a period of four months from the date of its execution and we find that there is sufficient evidence available on record which shows that the petitioner had indeed presented the Deed of Assignment on 13th May 2016, the date on which it was executed, and, therefore, in reality, there is no delay which has occurred on the part of the petitioner in presenting the document. The evidence that we have talked of can be found in stamps of adjudicating authority of the year 2016 affixed on the Deed of Assignment. Besides, the contention that the document was presented on the same day on which it was executed has also not been specifically denied by respondent no.4. Thus, it is an established fact that the petitioner has presented the document in question without any delay and, therefore, the authority could not have refused to accept the document for its registration on the ground of delay in presentation.

6. Even if it is assumed, just for the sake of argument, that there was delay in the matter, that delay is required to be viewed in the context of the time required to be spent by the petitioner in pursuing this statutory remedy in obtaining adjudication regarding stamp-duty from the competent authority. The issue of adjudication of the stamp-duty attained its finality on 21st June

2021 and the document in question was again presented to respondent no.4 on 28th July 2021. It was within 36 days from the date of final adjudication. The period of four months, as prescribed in Section 23 of the Registration Act, would have to be reckoned by deleting the period which was taken by the petitioner in pursuing its statutory remedy regarding seeking of adjudication about the stamp duty payable by it and if it is so calculated, one would find that the presentation of the document in question was well within time. Similar is the view taken by a Coordinate Bench of this court in the case of *Nestor Builders & Developers Pvt. Ltd. and Anr. Vs. State of Maharashtra and Ors.*, 2015 SCC OnLine Bom 3480, which commends to us.

7. In the result, the petition is allowed. The impugned communication dated 28th July 2021 is hereby quashed and set aside. We declare that the Deed of Assignment has been presented to respondent no.4 within time in terms of Section 23 of the Registration Act, 1908. We direct respondent no.4 to accept the Deed of Assignment for its due registration in accordance with law, provided the other conditions are fulfilled by the petitioner.

8. Rule is made absolute in the above terms. Petition is disposed of.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]