2024:BHC-NAG:7870

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, AT NAGPUR.

Writ Petition No. 5354 of 2023

M/s. Unity Developers, a registered
Partnership Firm having Office at 6-2-76/4,
MochiGali, Adilabad (Telangana) – 504001,
through its Partner, Shri Ashok Patel **…. Petitioner**

VERSUS

(1) Deputy Inspector General of
Registration and Deputy Controller
of Stamps, Amravati,
Division Amravati having Office at
C/o. Abhijeet Bhaiyyasaheb Thakre
Building, Mangilal Plot, Camp,
Amravati.
E-mail : digamravati@igrmaharashtra.gov.in

(2) Joint District Registrar,
Class-I and Collector of Stamps,
Yavatmal having Office at
Ground Floor, Administrative
Building, Collector Office Premises,
Yavatmal – 445001.
E-mail : jdryavatmal1@gmail.com **…. Respondents**

Mr. Firdos Mirza, Advocate for the petitioner
Mrs. M. A. Barabde, A.G.P. for the respondents

CORAM : ANIL L. PANSARE J.
DATED : 23-07-2024

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally with consent of learned counsel appearing for the parties.

2. Having heard both sides and having gone through the material placed before me, it appears that the petitioner – firm has purchased immovable property in the auction held under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner was declared the first highest bidder. The highest bid was Rs. 9,10,00,000/-.

3. The sale certificate could not be registered because the Sub Registrar concerned was of the view that the stamp duty will be payable at market value and not in terms of the auction purchase value.

4. The petitioner approached the Joint District Registrar, Yavatmal for assessment and valuation to register the sale certificate. The Joint District Registrar has assessed the valuation to the tune of Rs. 30,00,00,000/- approximately. The petitioner, under business emergency, proceeded to register the sale certificate by remitting the stamp duty at the value of Rs. 30,00,00,000/- but under protest.

5. Thereafter the petitioner has filed appeal under Section 32B of the Maharashtra Stamp Act, 1958 (hereinafter referred to as 'the Act of 1958') before the Deputy Inspector General of Registration, Amravati Division, Amravati (Respondent no. 1 herein). Respondent no. 1 has rejected the appeal on the ground that the petitioner has not preferred

appeal under Section 32B of the Act of 1958 and has further held that since the petitioner has already remitted the amount of stamp duty, the appeal is not maintainable to be rejected in terms of the provisions of the Act of 1958.

6. Learned Assistant Government Pleader though made an attempt to support the judgment but failed to show any provision that would bar the petitioner from filing appeal under Section 32B of the Act of 1958 subsequent to remitting the amount of stamp duty, that too, under protest. Secondly, the respondent no. 1 committed error in rejecting the appeal on the ground that it is not filed in terms of Section 32B of the Act of 1958. The appeal may not be in a format as expected by the respondent no. 1 but the fact remains that the petitioner has submitted application/letter under Section 32B of the Act of 1958. It is the substance and not the form, which has to be looked into. Respondent no. 1 appears to have given importance to the form and not the substance and thus committed error. In view thereof, the order impugned is unsustainable.

7. Writ petition is accordingly partly allowed.

8. The order dated 21-4-2023 passed by respondent no. 1 is quashed and set aside.

9. Appeal under Section 32B of the Maharashtra Stamp Act, 1958 is restored on the file of respondent no. 1, who shall decide the same afresh in accordance with law.

10. The petitioner shall appear before the respondent no. 1 on 5th August, 2024. The appeal shall then be decided as expeditiously as possible.

11. Rule is made absolute in above terms.

(Anil L. Pansare, J.)

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