IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4388 OF 2024

Niranjankumar Dayaram Batra & Anr. ....Petitioners
Versus
Inspector General Of Registration
And Controller Of Stamps Department
of Registrations and Stamps & Ors. ....Respondents

Mr. Sugandh B. Deshmukh *a/w. Mr. Bhushan G. Deshmukh, Aryan M. Deshmukh & Vaibhav Thorave, for Petitioner Nos.1 & 2.*

Mr. Kavita N. Solunke*, Additional G.P. for State.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : NOVEMBER 28, 2025

ORAL JUDGEMENT :

1. Rule. Rule is made returnable forthwith by consent of the parties and the Petition is heard finally.

2. This Petition impugns an Order dated June 27, 2017 passed by Respondent No.2, Deputy Inspector General of Registration and Deputy Collector of Stamps, Pune Division ("***Impugned Order***") denying an allowance of stamp duty in the form of refund claimed by the Petitioners pursuant to an Agreement for Sale dated October 26, 2016 ("***Original Agreement***") having been cancelled and reversed by a Deed of Cancellation dated November 23, 2016 ("***Cancellation Deed***").

3. It is common ground that the application for refund was made within the statutorily stipulated deadline of six months stipulated under Section 48 of the Maharashtra Stamp Act, 1958 ("***the Act***") since the refund application was made on March 15, 2017. The sole ground on which the Respondents have refused making an allowance for the stamp duty paid on the Original Agreement despite the Cancellation Deed is that Clause 9 of the Original Agreement provides that on execution of the Original Agreement, the vendor has handed over vacant and peaceful possession of the subject property.

4. Having heard Learned Advocates for the parties and examining the record, the Impugned Order has returned a finding that the transaction has already taken place. However, such a reasoning gives no credence to the Cancellation Deed which specifically recites that disputes had arisen regarding the title to the said subject property with objections being raised by a third party, which led to the parties agreeing to abandon and not act upon the transaction. Just as the Stamp Authorities have examined Clause 9 of the Original Agreement, they ought to have examined and dealt with these recitals and Clause 11 of the Cancellation Deed, which records that possession has not been handed over.

5. The application for allowance on stamp duty under Section 48 of the Act having been made well within the stipulated time, the reasons for which refund may be denied have to be reasonable and rational. The affidavit in reply filed on behalf of the State indicates that the document in question is actually a conveyance and not an Agreement for Sale. This is not the reason that has been found in the Impugned Orders. That apart, even a plain review of the Original Agreement which has been cancelled would indicate that the nature of the instrument is an Agreement for Sale. It has been stamped as an Agreement for Sale. The Deed of Cancellation evidently reverses the Agreement for Sale. Even if possession was provided as being meant to be handed over against execution of the Agreement for Sale, it is clear that in a month, the parties have agreed to reverse the Agreement for Sale. Merely in reliance on Clause 9 of the Agreement for Sale, it cannot be concluded that the instrument in question was a conveyance deed despite having been stamped as an Agreement for Sale.

6. That apart, the very objective of a Deed of Cancellation is to cancel the Original Instrument, and Section 48 envisages the execution of such an instrument. The reasoning adopted by the Stamp Authorities is inexplicable inasmuch as it would logically extend to a position that an Agreement for Sale that contemplates handing over of possession at execution can never be cancelled. This is not supported

either by provisions of the Act nor any position in law. The Agreement for Sale is not stamped as a conveyance deed. It is common ground that both the Agreement for Sale and the Deed of Cancellation are both executed and registered.

7. In these circumstances, this is a fit case to find that the Deed of Cancellation is well within the parameters for grant of an allowance for the stamp duty under Section 48 of the Act.

8. The Petition, therefore, deserves to be allowed, directing the stamp duty be refunded with interest, if any, in accordance with the Rules, within a period of six weeks from the date of upload of this judgement.

9. The Petition is hereby ***finally disposed of.*** Rule is made absolute in the aforesaid terms.

10. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]