IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8567 OF 2024

M/s. Gajra Group ...Petitioner
Versus
The Joint District Registrar and Stamp Collector district Raigad & Ors. ...Respondents

Mr. S.R. Nargolkar i/b Tanaji Mhatugade for Petitioner.

Mr. B. V. Samant, Addl. G. P. a/w S. S. Bhende AGP for State.

Mr. S. K. Dhekale, Court Receiver, High Court, Bombay present.

CORAM: G. S. KULKARNI & ADVAIT M. SETHNA, JJ.

DATE: 10 FEBRUARY 2025

P.C.

1. We have heard Mr. Nargolkar, learned counsel for the petitioner, Mrs. Bhende, learned Additional Government Pleader and Mr. S. K. Dhekale, Court Receiver – Respondent No.3 is present.

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs :

> "a) That this Hon'ble Court may issue a Writ of mandamus or any other appropriate, writ, order or direction directing the Respondent Nos.1 & 2, the Sub Registrar, Panvel Dist. Raigad-Alibaug to forthwith register the Petitioner's documents being Deed of Conveyance Exhibit "A" dated 03.06.2008 executed by the Court Receiver, High Court, Bombay in favour of the Petitioner in respect of property bearing TPS No.364 situated at Matheran Raod Panvel Dist-Raigad. And/Or.

> b) That this Hon'ble Court may direct the Respondent No.3 to execute the necessary document of confirmation as insisted upon by the Respondent No.2, to get execute the registration of the said deed of Conveyance Exhibit "A" dated 03.06.2008 in favour of the Petitioner in respect of property bearing TPS No.364, admeasuring about 5553 Sq.mtrs situated at Matheran Road, Panvel Dist, Raigad."

3. Mr. Nargolkar has submitted that there is no dispute that the petitioner is the purchaser of the property in question from the Court Receiver, High Court of Bombay – Respondent No.3 in the proceedings of Original Side Suit No. 2823 of 2001. We do not intend to refer to the orders which are passed by the learned Single Judge on the Court Receiver's Report No. 31 of 2008 as pertain to the sale in question suffice it to observe that the Court had approved the sale of the property in question being TPC No. 364 situated at Matheran Road, Panvel District Raigad in favour of the petitioner.

4. Pursuant thereto, a deed of conveyance dated 3 June 2008 was entered between the Court Receiver and the petitioner. As per the provisions of Sections 23 and 25 of the Maharashtra Stamp Act, the conveyance deed was required to be registered within the time stipulated under Section 23. However, we note that in the facts of the present case, although the Stamp Duty of Rs. 18,75,000/- was paid by the petitioner on 24 March 2008, the deed of conveyance could not be registered. It is not in dispute that on 7 December 2023, an amnesty scheme was announced by the Government of Maharashtra. The petitioner applied under the amnesty scheme to avail the benefit of the reduction in the stamp duty and penalty, in view of the consequence of the document not being registered in accordance with the provisions as noted by us hereinabove.

5. It is the petitioner's case that by availing the benefit of such scheme which relates to the stamp duty and the penalty, the petitioner has paid a deficit Stamp Duty and penalty totaling Rs. 34,37,500/-.

6. Mr. Nargolkar would submit that, in the peculiar facts and circumstances of the case, the only avenue which is available for the parties would be to execute a deed of confirmation as permissible and proceed to execute the deed of confirmation along with the original documents on which the Stamp Duty has already been paid.

7. In this context, Mr. Nargolkar has drawn our attention to the provisions of Section 4 of the Maharashtra Stamp Act, which pertains to several instruments used in single transaction of development, sale deed, mortgage of settlement and that the confirmation deed are accordingly required to be stamped as provided for in sub-section (1) of Section 4.

8. The learned Court Receiver has appeared. He would not have any objection to what has been stated by Mr. Nargolkar. He would submit that the parties can hold a meeting and can proceed to execute a deed of confirmation within four weeks from today. We accept such statement as made by the Court Receiver.

9. Insofar as the State Government is concerned, Mrs. Bhende, Additional GP has drawn our attention to the reply affidavit filed by Shri Shrikant Dattatray Sonawane, Joint District Registrar, District Raigad, Alibag. Upon perusal of the reply affidavit, it is seen that the deed of conveyance dated 3 June 2008 and the payment of Stamp Duty of Rs. 34,37,500/- on the original document have not been disputed on behalf of the Stamp Department. However, the case of the department is that Sections 23 and 25 of the Maharashtra Stamp Act were applicable, hence, the deed of conveyance dated 3 June 2008 could not have been registered. In our opinion, what is imperative in the present circumstances are the averments as made in the paragraph no. 11 by the deponent that the petitioner has an option of executing a confirmation deed and presenting the same for registration within the stipulated time, by paying Stamp Duty as on date, and that the stamp duty already paid will be adjusted, although a relief on the deed of conveyance dated 3 June 2008 cannot be granted. The relevant averments in this regard are required to be noted which are para 11 and 12 on page 94 of the reply affidavit:

> "11. I say that as document has become time barred and thus the same cannot be accepted for Registration as per the provisions of Section 23 and 25 of the Registration Act. However, the Petitioner has an option of executing a Confirmation Deed and Presenting

> the same for Registration within the stipulated time by paying requisite stamp duty as on date. The amount already paid by the Petitioner will be adjusted.
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> 12. Considering the above circumstances, I say that the relief sought by the Petitioner in the present Petition cannot be granted as the said document (Conveyance Deed dt. 03.06.2008), is time barred and there is no statutory provision for condoning the delay in registering the time barred documents."

10. Having heard learned counsel for the parties and having perused the record as also the reply affidavit filed on behalf of the Stamp Authorities, we are of the opinion that the suggestion of Mr. Nargolkar, as also accepted on behalf of the State Government, it appears that the only avenue which is available to the petitioner is to now execute a confirmation deed, confirming the deed of conveyance dated 3 June 2008. Thus, appropriate steps to register the confirmation deed along with deed of conveyance dated 3 June 2008 need to be undertaken by the petitioner. This more particularly as on the principal document, stamp duty has already been paid by the petitioner, as also the penalty amount has been paid by availing the benefit of the amnesty scheme. The Learned Court Receiver is also not averse for such appropriate steps being taken. Thus, there ought not to be in any manner, a *fait accompli* in view of the document not being registered as per the provisions of the Stamp Act and / or the registration becoming time barred. It is for such reason, Section 4 of the Maharashtra Stamp Act becomes relevant.

11. Needless to observe that considering the provisions of Section 88(a)(c) of the Registration Act, the Stamp Authorities will not insist for the presence of the learned Court Receiver at the time of execution of deed of conveyance.

12. The learned Court Receiver shall issue a specific communication qua the execution of the deed of confirmation, and the same requiring registration and as permissible under Section 88 of the Registration Act.

13. In the aforesaid circumstances, the petition is accordingly disposed of by the following order:

ORDER

(i) Let a confirmation deed be executed between the learned Court Receiver and the petitioner, confirming the deed of conveyance dated 3 June 2008, within a period of three weeks from the date a copy of this order is made available.

(ii) After the execution of the confirmation deed between the parties, the same be presented for registration within a period of four weeks of its execution subject to the payment of appropriate stamp duty on the Confirmation Deed as per the provisions of Section 4 and/or any other provisions the law may mandate.

(iii) The Stamp Authority to register the deed of confirmation along with the deed of conveyance within a period of four weeks from the receipt of the application / document of confirmation deed for registration.

14. All contentions of the parties on the proposed registration are expressly kept open.

15. Disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.) (G. S. KULKARNI, J.)