

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1430 OF 2025

Nivedita Anant Athani ... Petitioner
Vs.
State of Maharashtra and others ... Respondents

Mr. Pranav Dessai i/b. Mr. Sujit Padarat for Petitioner.

Ms. Prachi Tatake, Additional GP (through VC) a/w. Ms. Manisha Gawde, AGP
for Respondent Nos.1 to 3.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 06, 2025

P.C. :

- . Heard Mr. Dessai, learned counsel for the petitioner.
2. Issue notice for final disposal, returnable on 04.11.2025, High on Board.
3. The case of the petitioner is that respondent No.3 i.e. Joint Sub Registrar, Mumbai could not have passed the impugned order dated 07.03.2025, refusing registration of the consent decree of this Court. The said respondent has refused registration only on the ground that there is a delay in presentation of the document within the period of limitation as contemplated in Section 23 of the Registration Act, 1908, even if the provision under Section 25 thereof is taken into consideration.
4. According to the petitioner, she cannot be held at fault for the time period consumed in the process of adjudication of stamp duty payable on the decree, by the respondent No.2 - Collector of Stamps. It is submitted that as soon as the said respondent clarified before the decree department of this Court with regard to the aspect of payment of stamp duty, on 05.03.2025, the decree department lodged the decree with respondent No.3 for registration. On this basis, it is contended that

there is no question of Section 23 read with Section 25 of the Registration Act, 1908, coming the way of the petitioner for registration of the said consent decree.

5. The chronology of events is brought to the notice of this Court on behalf of the petitioner to assert that the petition deserves to be allowed. Reliance is also placed on judgement of Division Bench of this Court in the case of Nestor Builders & Developers Pvt. Ltd. and another Vs. State of Maharashtra and others (judgement and order dated 24.06.2015 passed in Writ Petition No.1480 of 2013).

6. This Court is of the *prima facie* opinion that there is substance in the contentions raised on behalf of the petitioner, particularly in the light of the law laid down by this Court in the aforesaid judgement of the Division Bench. If the chronology of events, as claimed by the petitioner is undisputed, the petition will have to be allowed.

7. The learned Additional GP appearing for respondents seeks short adjournment to file an affidavit to confirm as to whether the statements made in the petition are justified. It is to be noted that the petitioner has specifically asserted that respondent No.2 - Collector of Stamps did not proceed to finally adjudicate the extent of stamp duty payable and in such circumstances, the petitioner was constrained to deposit the stamp duty as adjudicated in the interim order of adjudication.

8. An affidavit be filed on behalf of the respondents within three weeks from today. Rejoinder, if any, be filed within one week thereafter.

9. The petition shall be heard for final disposal on the returnable date.

(MANISH PITALE, J.)