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

WRIT PETITION NO.1430 OF 2025

Nivedita Anant Athani

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

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

Ms.Prachi Tatake, Addl.G.P. (through V.C.) for Respondent Nos.1 to 3.

CORAM: FIRDOSH P. POONIWALLA, J.

DATE: DECEMBER 3, 2025

ORAL JUDGEMENT:

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. This Writ Petition challenges the Order dated 6th March 2025 passed by the Sub-Registrar whereby he has refused to register the Consent Decree lodged for registration with him on the ground that it was not filed within the stipulated time.

3. The facts of this case are as follows:
- a. On 21st November 2022, the decree was engrossed.
 - b. On 24th November 2022, the engrossed decree was forwarded by the Decree Department to the Collector of Stamps for adjudication.
 - c. On 21st August 2023, interim order of adjudication was passed by Collector of Stamps. The Collector of Stamps sent the interim order to the Decree Department, which in turn sent it to the Petitioner's Advocate, who received it on 25th September 2023.
 - d. On 27th September 2023, the Petitioner conveyed her objection to the interim order of adjudication. Thereafter, since, despite the same, no final order of adjudication was passed, the Petitioner decided to pay the stamp duty. On 19th March 2024, the Petitioner paid the stamp duty and informed the Collector of Stamps & the Decree Department.

e. On 19th August 2024, the Decree Department wrote to the Collector of Stamps asking for the status. On 18th January 2025, the Collector of Stamps sent adjudicated/stamped decree to the Decree Department. On 24th January 2025, the Decree Department emailed the Petitioner's Advocate to contact them for Registration of the Decree.

f. On 5th March 2025, the Decree Department lodged the decree for Registration with the Sub-Registrar. By an Order dated 6th March 2025, the Sub-Registrar returned the Consent Decree on the ground that it was not filed within the stipulated time, as provided by Section 23 of the Registration act, 1908.

4. It is the case of the learned Advocate for the Petitioner that the time taken for adjudication of the decree for stamp duty should be excluded for the purpose of calculating the period of four months under Section 23 of the Registration Act, 1908. In support of his submission, the learned counsel for the Petitioner relied upon the judgement of this Court in **Nestor Builders & Developers Pvt. Ltd. And Another vs. State of Maharashtra and others 2015 SCC OnLine Bom 3480**.

5. On the other hand, the learned A.G.P. for Respondent Nos.1 to 3 relied upon the Affidavits filed by Respondent Nos.1 to 3 and supported the impugned order. She submitted that, since the decree was lodged for registration much beyond the period of four months, the same was correctly returned and not registered.

6. In my view, the Petitioner is right in contending that the time taken for adjudication of stamp duty has to be excluded. If the said time is excluded, then the Consent Decree would have been lodged within the period of four months as required under Section 23 of the Registration Act. This submission of the Petitioner is supported by the Judgment in **Nestor Builders & Developers Pvt. Ltd. (Supra)**. Paragraph 11 of the said judgement is relevant and is set out hereunder:

“11. In the facts of the present case the delay was purely attributable to the Collector of Stamps in passing a final adjudication order under Section 31 of the Maharashtra Stamps Act on 18 February 2013. This delay on the part of the Collector of Stamps cannot be held to be detrimental to the petitioners who were not at fault and who were diligently pursuing the proceedings before the Collector of Stamps as observed above, The action of the respondents not to exclude the period taken by the Collector of Stamps in adjudication of the documents for the purpose of determination of the stamp duty would entail serious consequences, defeating the rights of the petitioners to get the document registered for no fault on their part. This certainly cannot be said to be the intention of the Legislature. In the decision of the learned Single Judge of this Court (Coram: R.M. Savant, J.) in Writ Petition No. 2662 of 2012 relied on behalf of the petitioners, the learned Single Judge after taking into

consideration the provisions of the Registration Act has held that it would be appropriate to exclude the time taken by the authority to adjudicate the stamp duty payable on the document sought to be registered. The reliance of the petitioners on this decision is appropriate. In the circumstances, a bonafide delay beyond the control of the petitioners as caused in the present case which cannot be attributed to any intentional or a deliberate act or negligence on the part of the petitioners, would be required to be excluded in permitting the petitioners to avail Registration of a document in question. A similar view has been taken by this Court by one of us (G.S. Kulkarni, J.) in Writ Petition No. 903 of 2014 decided on 26 June 2014 (Chhabildas Dalichand Bhayani v. The Sub-Registrar of Mumbai) and which follows the Judgment of R.M. Savant, J.”

7. For all these reasons, the Petition is allowed in terms of prayers (a), (b) and (c), which read as under:

“a) that this Hon'ble Court be pleased to issue a writ of certiorari, or writ in the nature of certiorari or any other appropriate writ, order or direction calling for the records leading to the issuance of the communication dated 7th March 2025 (Ex. 'S') by Respondent No. 3 refusing / declining to register the engrossed stamped Consent Decree dated 20th December 2019 passed by this Hon'ble Court in Draft Decree (Lodging) No. 55 of 2021 in Suit No. 2714 of 2007 and after examining the legality and propriety of the same, to quash and set aside the same;

(b) that this Hon'ble Court be pleased to declare that the engrossed stamped Consent Decree dated 20th December 2019 passed by this Hon'ble Court in Draft Decree (Lodging) No. 55 of 2021 in Suit No. 2714 of 2007, having been lodged for Registration with the Respondent No. 3 on 5th March 2025, has been lodged for Registration within the period of limitation prescribed u/s. 23 of the Registration Act, 1908 and further that the period spent by the Petitioner in pursuing this petition cannot be held against her in any manner;

(c) that this Hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other

appropriate writ, order or direction directing the Respondent No. 3 to register; within such time as this Hon'ble Court may see fit to direct, the engrossed stamped Consent Decree dated 20th December 2019 passed by this Hon'ble Court in Draft Decree (Lodging) No. 55 of 2021 in Suit No. 2714 of 2007 utilising the Registration charge of Rs. 30,000 and the Document Handling Charge of Rs. 900 already paid by the Petitioner vide the challans dated 5th March 2025 (Ex. 'O' and 'P').”

8. Respondent No.3 to register the Consent Decree dated 20th December 2019 within a period of four weeks from the date of uploading of this Judgement.

9. Rule is made absolute in the aforesaid terms. There will be no order as to costs.

[FIRDOSH P. POONIWALLA, J.]