IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14539 OF 2025

AND

WRIT PETITION NO.14907 OF 2025

Anil Kisanchand Bhatia … Petitioner

Vs.

Joint District Registrar Class 1 and District Collector of Stamps and others … Respondents

Mr. Sarthak S. Diwan for Petitioner in both the Petitions.

Mr. O. A. Chandurkar, Additional GP a/w. Ms. G. R. Raghuwanshi, AGP for Respondents-State in WP/14539/2025.

Ms. Pooja Patil, AGP for Respondents-State in WP/14907/2025.

CORAM : MANISH PITALE & SHREERAM V. SHIRSAT, JJ.

DATE : FEBRUARY 10, 2026

P.C. :

. Both these petitions raise a common issue.

2. We find that these petitions have come up for effective consideration today for the first time. But, since the respondents being State authorities are represented by the learned AGP, we have taken up the petitions for final disposal at this stage itself. We are tempted to do so because we find that the issue raised in this petition is squarely covered in terms of judgements passed by this Court.

3. The short issue for consideration is as to whether the respondent No.1 i.e. Joint District Registrar Class 1 and District Collector of Stamps was justified in passing the impugned orders, directing the petitioner to pay stamp duty on the 'market value' of the subject properties, instead of the value recorded in the sale certificates issued in favour of the

petitioner as an auction purchaser in pursuance of an auction conducted by Union Bank of India i.e. a secured creditor under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Securitisation Act, 2002').

4. A perusal of the impugned orders indeed shows that the notice of demand and the eventual order proceeded on the basis of 'market value' of the subject properties and ignored the sale price recorded in the respective sale certificates concerning the properties.

5. The learned counsel for the petitioner relies upon judgements of Division Benches of this Court in the cases of *Dr. Prince John Edavazhikal Vs. Collector of Stamps*, **2024 SCC OnLine Bom 3872** and *Trident Estate Private Limited Vs. The Office of Joint District Registrar, Class-1, Collector of Stamps, Pune Rural*, **2024 SCC OnLine Bom 3523**, in addition to relying upon the judgment of the Supreme Court in the cases of *V. N. Devadoss Vs. Chief Revenue Control Officer-cum-Ins. and others*, **(2009) 7 SCC 438**. It is submitted that the issue raised by the petitioner in these petitions is no more *res integra*, and therefore, this Court may allow the petitions, set aside the impugned order and direct that the petitioner is liable to pay stamp duty on the sale price recorded in the respective sale certificates.

6. The learned AGPs appearing in the petitions submitted that the impugned order itself makes it clear that the petitioner has an alternative remedy and in that light, this Court may not entertain the present writ petitions. According to the learned AGPs, the petitioner should have exhausted the alternative remedy before knocking the doors of the Writ Court.

7. We have considered the rival submissions. We do not find any

substance in the objection raised on behalf of the respondents in respect of the alternative remedy available to the petitioner. It is settled position of law that the rule of a Writ Court not entertaining petitions due to availability of alternative remedies is a rule of prudence and not a rule of law. The question is not of maintainability but entertainability and it is always open for the Writ Court to entertain the petition, even if there is an alternative remedy available, depending upon the facts and circumstances of each case. This aspect has been clarified by the Supreme Court in its judgement in the case of *Godrej Sara Lee Limited Vs. Excise & Taxation Officer*, **2023 SCC OnLine SC 95**.

8. We also find that there are no disputed questions of facts raised in these petitions and the issue raised by the petitioner being squarely covered by the judgements of this Court and the Supreme Court, the respondent No.1 - State authority was required to follow the same instead of passing an order in the teeth of the position of law clarified in the said judgements.

9. This Court in the case of **Dr. Prince John Edavazhikal Vs. Collector of Stamps** *(supra)*, while considering a similar situation observed as follows:-

> "7. Having perused the record and after hearing Mr. Sen, as well as Ms. Vyas, we find considerable force in the arguments canvassed by Mr. Sen. Rule 4 of the 1995 Rules talks about the Annual Statement of Rates of immovable property. Rule 4(6) stipulates that every Registering Officer shall, when the instrument is produced before him for registration, verify in each case, the market value of the land and buildings etc. in accordance with the Annual Statement of Rates and the valuation guidelines issued from time to time. If he finds that the market value as stated in the instrument is less than the market value determined as set out in Rule 4, he shall refer the same to the Collector of the District for determination of the true market value of the property [which is the subject matter of the instrument] and the proper duty payable thereon. However, the first proviso to Rule 4(6) stipulates that if a property is sold or allotted by the Government, or a Semi-Government Body, or

> a Government Undertaking, or a Local Authority on the basis of a pre- determined price, then the value determined by the said body shall be the true market value of the subject matter property. It is not in dispute that BOI is a Government Undertaking. It is BOl who has auctioned the said property under the provisions of the SARFAESI Act, 2002, in which the Petitioner was the successful auction purchaser. Once this is the case, we find that the Stamping Authorities could not have independently assessed the market value of the said property in the teeth of the first proviso to Rule 4(6). On this ground alone, the Petition should succeed. However, to ensure that there was, in fact, a fair price discovery, as mentioned earlier, we had directed BOI to file an affidavit in this Court."

10. Similar observations were made in the case of **Trident Estate Private Limited Vs. The Office of Joint District Registrar, Class-1, Collector of Stamps, Pune Rural** *(supra)*. In the case of **V. N. Devadoss Vs. Chief Revenue Control Officer-cum-Ins. and others** *(supra)*, the Supreme Court considered the concept of market value and found that when the property was being sold in open market and bids were invited with the valuation being fixed on objective criteria, the insistence on 'market value' on the part of the State authorities may not be justified.

11. We find that the said position of law makes it abundantly clear that in the present case, when a nationalized bank i.e. Union Bank of India conducted the subject auction, whereby properties in question were purchased by the petitioner on the basis of open bids, the sale price of the properties recorded in the subject sale certificates ought to have been the basis for determining the stamp duty payable. There was no reason for the respondent No.1 to have issued a demand notice on the basis of 'market value' of the properties and then proceeding to pass the impugned orders against the petitioners.

12. In view of the above, the writ petitions are allowed. Consequently, the impugned demand notice dated 30.03.2025 issued by the respondent

No.1 and the impugned order dated 24.09.2025 issued by the said respondent (subject matter of challenge in Writ Petition No.14539 of 2025) are quashed and set aside. For the same reasons, the impugned demand notice dated 15.05.2025 issued by the respondent No.1 and the impugned order dated 24.09.2025 issued by the said respondent (subject matter of challenge in Writ Petition No.14907 of 2025) are also quashed and set aside.

13. We are informed that the petitioner has already deposited the stamp duty on the basis of sale price of the properties mentioned in the respective sale certificates and copies of challans to that effect are annexed to the petition.

14. In view of the above, the respondent No.1 is directed to only verify as to whether the stamp duty actually deposited by the petitioner in respect of both the properties on the basis of the sale price of the properties mentioned in the respective sale certificates is correct or not in terms of relevant rules. If at all there is any shortfall, appropriate demand notices may be issued, which shall then be satisfied by the petitioner. This exercise shall be completed within a period of four weeks from today.

15. Writ petitions are disposed of. Pending applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**