



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1076 OF 2023

**Shelter Creators Wardha through It's Parnter Deepak S/o Gangadhar
Mandokar Vs. District Registrar (Class-I) and Collector (Stamps),
Yavatmal**

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. M.A. Vishnu, Adv. h/f Mr. A.J. Salway, Advocate for Petitioner
Mrs. R.V. Sharma, AGP for Respondent / State

**CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATED : 19th November, 2024

1. On 11.11.2024, we have recorded the following position.

“Heard.

2. The Petition seeks quashing of the order dated 22.07.2022 passed by the Respondent (page 74 and 75) refusing to refund the stamp duty paid on the sale deed dated 26.08.2021, in view of the Compromise Decree dated 12.03.2022 in Spl.C.S. No.16/2022 (page 46) executed between the parties.

3. Mr. Salway, learned Counsel for the Petitioner, relies upon the provisions of Sections 47 and 48 of the Maharashtra Stamp Act (for short “MSA”), to contend that once the sale deed dated 26.08.2021 came to be cancelled in terms of the Compromise Decree, the Petitioner was

entitled for refund of the stamp duty levied upon the sale deed, as the instrument was no longer in existence.

4. He places reliance upon Section 48 of the MSA, to contend that such an entitlement would be there. Section 48 of the MSA, merely provides for making of an application for relief under Section 47 of the MSA. Section 47 of the MSA, speak about allowance for spoiled stamps and refund on that account. Section 47 (c) (2 to 8) of the MSA, would not be attracted in the instant case, as in terms of the proviso thereto a litigation has already been initiated and was pending in the Court. What would be therefore applicable would be Section 47(c) (1A) of the MSA.

5. The decree on which the reliance is placed in this regard dated 12.03.2022, is a Compromise Decree passed by the learned Civil Court, in which there is no finding by the Court that the document in question, was absolutely void from the beginning under Section 31 of the Specific Relief Act, 1963 as is the requirement of the said provision.

6. Mr. Salway, learned Counsel for the Petitioner, therefore seeks a day's time to advance argument on this proposition.

7. List the matter tomorrow i.e. on 12.11.2024.”

2. On 12.11.2024, time was sought by Mr. Salway, learned counsel for the petitioner to place

on record a document indicating the established tenancy rights created in the land in question by an appropriate order of tenancy Tahsildar. While granting time it was made clear, that in case such a document is not placed on record, the Court will be constrained to dismiss the petition. Today when the matter is listed, no such document is forthcoming. In view of which for the reasons recorded in order dated 11.11.2024, the petition is dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

MP Deshpande