

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 563 OF 2018

Ashok D. Goyal	...Petitioner
Versus	
The State of Maharashtra and Others	...Respondents

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**WITH
WRIT PETITION NO. 12923 OF 2017**

M/s. Devyog Builders Private Limited (Through its Director Mr. D.R. Goyal)	Petitioner
versus	
The State of Maharashtra and Others	...Respondents

Mr. Yashwant D. i/b. Mr. Navin Arora, for the Petitioner.
Smt. Savina Crasto, AGP, for the State in WP No. 563 of 2018.
Smt. V.R. Raje, AGP for the State in WP No. 12923 of 2017.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 12th OCTOBER, 2026

PC. :

1. Heard learned counsel for the parties.
2. These two Writ Petitions can be disposed of by a common order, in the light of the fact that the issue being raised in these petitions is common.

3. The basic issue raised in these petitions is that the respondent State authorities have acted in a most arbitrary manner by initially debit-freezing the bank accounts of the petitioners for specific amounts and thereafter withdrawing such amounts towards deficit stamp duty, without first putting the petitioners to notice and considering their explanation with regard to the allegation of deficit stamp duty.

4. In order to support the contentions raised on behalf of the petitioners concerning the said issue raised in the Writ Petitions, the learned counsel for the petitioners in both these petitions referred to the chronology of events. It was brought to the notice of this Court that the petitioner in Writ Petition No. 563 of 2018 is proprietor of Ashoka Developers, while the petitioner in Writ Petition No. 12923 of 2017 is a company through its Director.

5. On 11.06.2008, an agreement was executed by petitioner in Writ Petition No. 12923 of 2017, in respect of which the stamp duty as demanded by the Sub-Registrar was duly deposited. Similarly, on 26.06.2008, the petitioner in Writ Petition No. 563 of 2018 had executed an agreement, in respect of which also stamp duty as demanded by the Sub-Registrar was deposited. The documents were

duly executed and registered.

6. For a long period of about seven years, the petitioners did not hear anything from the respondents, but suddenly on 10.02.2015, both the petitioners received notices issued by respondent Sub-Registrar, Thane-4, alleging that deficit stamp duty was required to be paid in respect of both the aforesaid transactions. On 23.02.2015, the petitioners submitted their replies to the said notices.

7. Thereafter, the bank in which the petitioners were having their accounts sent communications in the year 2017 intimating the petitioners that their accounts had been debit-frozen for the specific amounts mentioned in the notices received by them, pertaining to alleged deficit stamp duty.

8. In that light, the petitioners filed these Writ Petitions, aggrieved by the actions of the respondents. The petitioners contended that even before determination of the amount of deficit stamp duty, if any, after granting hearing to the petitioners, the said coercive action had been taken at the behest of the respondent State authorities.

9. During the pendency of the Writ Petitions, the accounts of the petitioners were debited for specific amounts and thereafter the freeze

on the said accounts was lifted. As a consequence, the Writ Petitions were amended. In Writ Petition No. 563 of 2018, the amount of Rs. 17,14,323/- was debited, and in the case of the petitioner in Writ Petition No. 12923 of 2017, an amount of Rs. 13,89,190/- was debited. Accordingly, the petitioners amended the Writ Petitions to add substantial prayers for direction to the respondents to refund the said amounts to the petitioners. It appears that inadvertently in Writ Petition No. 563 of 2018, while in the interim prayer the correct amount has been mentioned, but in the substantial prayer being prayer clause (c-1), the petitioner has stated the basic amount of deficit stamp duty mentioned in the original notice dated 10.02.2015. Since the Writ Petition was also substantially amended to add pleadings, and in paragraph 15(a) the said petitioner indeed raised a specific ground regarding arbitrary recovery of the said amount of Rs. 17,14,323/-, we are inclined to show indulgence and consider the aforesaid prayer clause (c-1) as pertaining to the amount of Rs. 17,14,323/-.

10. The reply affidavits in these Writ Petitions have been filed by the Joint District Registrar, Class-I and Collector of Stamps, Thane City, who is also arrayed as a respondent in the Writ Petitions. We

have perused the contents of the reply affidavits, wherein the reliefs claimed in the Writ Petitions have been opposed.

11. The learned counsel for the petitioners refers to the contents of the Writ Petitions as well as the reply affidavits, and he submits that even if the contents of the reply affidavits are accepted as it is, this is a clear case of violation of principles of natural justice, and amounts have been coercively recovered from the petitioners even before considering the response of the petitioners to the notices. It is submitted that unless the respondents considered the replies of the petitioners and determined the amount of deficit stamp duty payable, if any, coercive action could not have been taken against the petitioners. Upon referring to the relevant dates, it was submitted that the replies filed by the petitioners were never considered, and even before that, revenue recovery certificates were issued by the Collector under the provisions of the Maharashtra Land Revenue Code, 1966 ("MLRC"). It was submitted that on this short ground, the Writ Petitions deserve to be allowed.

12. On the other hand, Ms. Crasto, learned AGP appearing on behalf of the respondent State authorities, relied upon the contents of the reply affidavits. It was contended that the extent of deficit stamp

duty was informed by the Auditor General of the Government of Maharashtra in both the cases, and thereupon appropriate action was taken against the petitioners. It was submitted that since the competent authority in the matter had calculated and arrived at specific figures pertaining to deficit stamp duty, the respondent State authorities proceeded further in the matter.

13. Having perused the documents and material on record, and after considering the submissions made on behalf of the parties, we are constrained to observe that in the present case, the respondent State authorities have proceeded to take coercive action of recovering amounts from the petitioners on the ground of alleged deficit stamp duty for the subject documents, without considering the replies submitted by the petitioners to specific notices dated 10.02.2015 issued to them. The respondent State authorities have simply relied upon revenue recovery certificates issued by the Collector under the provisions of the MLRC dated 14.03.2014 to justify the coercive action taken against the petitioners. This is evident from the contents of the reply affidavits filed in these petitions. As regards the relevant dates in the present matter, the contents of the relevant paragraphs in both the reply affidavits are almost identical. Therefore, paragraph numbers 8,

9, and 10 in the reply affidavit filed in Writ Petition No. 563 of 2018 are reproduced hereinbelow:

8] I respectfully submit that notice was sent to the Petitioner on 10.2.2015 and informed the information about the audit objection and details of the deficit stamp duty to be payable by the party against the said transaction. It has also informed that if the Petitioner wants to make any submission / reply to the said communication / audit objection, then the Petitioner should remain present alongwith the original record / documents for hearing before the Joint District Registrar, Thane on 23.2.2015, failing which it will be presumed that the Petitioner do not want to say any thing against the said communication / audit objection and will proceed to make recovery of the deficit stamp duty in accordance with law.

9] I respectfully submit that vide reply dated 23.2.2015, the Petitioner has contended that the stamp duty against the said transaction was paid as per the calculation made out at the relevant time by the concerned Sub Registrar and accordingly the Petitioner had paid the stamp. It has also informed to forthwith withdraw the said notice cum communication dated 10.2.2015. duty payment. It has also informed to forthwith withdraw the said notice cum communication dated 10.02.2015.

10] I respectfully submit that after considering the reply of the Petitioner, the Collector of Stamps, Thane City has issued the Revenue Recovery Certificate under Section 46 of the Maharashtra Stamp Act 1958 directing the Petitioner to make the deficit stamp duty payment of Rs. 5,95,100/- within one month from the date of receipt of the said recovery certificate dated 14.3.2014, failing which fine upon the said deficit stamp duty payment shall be imposed.

14. Accepting the contents of the aforesaid affidavits and the stand taken on behalf of the respondent State authorities, we find that the revenue recovery certificates dated 14.03.2014 were issued even prior to issuing the notices dated 10.02.2015 to the petitioners alleging that they were liable to pay amounts towards deficit stamp duties. In other

words, the concerned authorities had already reached findings and conclusions against the petitioners, had acted upon the same, and the Collector had even issued revenue recovery certificates for specific amounts prior to notices being issued to the petitioners. The contents of the above-quoted portion of the reply affidavit further indicate that although the replies to the notices dated 10.02.2015 were submitted by the petitioners on 23.02.2015, the deponent of the reply affidavit claimed that the revenue recovery certificates dated 14.03.2014 were issued "after considering the reply of the petitioner". The said stand of the respondents is wholly unsustainable, simply for the reason that since the replies were submitted much later on 23.02.2015, the concerned authorities could not have considered the same while issuing revenue recovery certificates prior in point of time on 14.03.2014. This is a clear case of gross violation of principles of natural justice, and the petitioners have been deprived of an opportunity of consideration of their stand on the allegation of deficit stamp duty payable on the subject transactions /documents.

15. The arbitrariness of the action of the respondents is writ large in having proceeded to take coercive measures by initially debit-freezing the bank accounts of the petitioners and subsequently even

withdrawing amounts from the bank accounts of the petitioners during pendency of the Writ Petitions.

16. In the light of the admitted position on facts, we find that the impugned actions taken by the respondents are wholly unsustainable, and therefore the Writ Petitions deserve to be allowed.

17. Accordingly, the Writ Petitions are allowed in terms of prayer clauses (b) and (c-1).

18. The revenue recovery certificates dated 14.03.2014 are quashed and set aside.

19. The respondents are directed to refund specific amounts stated in prayer clauses (c-1) in both the petitions to the petitioners within two weeks from today. In view of the observations made hereinabove, in writ petition No. 563 of 2018 the amount for refund shall be treated as Rs. 17,14,323/-.

20. However, it is made clear that the respondent authorities would be at liberty to proceed in accordance with law pursuant to notices dated 10.02.2015. The petitioners shall be granted reasonable hearing, and respondent authorities shall comply with the principles of natural justice before taking any further steps in the matter.

21. Needless to say, the petitioners shall be furnished all the documents on the basis of which the respondent authorities claim that the petitioners are liable to pay deficit stamp duty.

Both the petitions stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)