



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.192 OF 2020

M/s. Arthur Import Export Co. and
Anr.

...Petitioners

V/s.

Joint Sub-Registrar, Class 1, Mumbai
Suburban District.

...Respondent

Mr. Hrushi Narvekar with *Ms. Pooja Rathod, Mr. Dev Mehta i/b. M/s. Vashi & Vashi Associates for the Petitioners.*

Ms. Sulbha D. Chipade, *AGP for the Respondent-State.*

CORAM: SANDEEP V. MARNE, J.

DATED: 10 NOVEMBER 2025.

Oral Order.:

1) **Rule.** *Rule* is made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petition is taken up for hearing and final disposal.

2) The Petition challenges order dated 21 May 2018 passed by the Jt. Sub-Registrar, Mumbai Suburban District refusing registration of instrument on the ground of absence of Registrar of City Civil Court, before the registration authorities at the time of presentation of the instrument for registration.

3) Brief facts leading to filing of present Petition are stated thus:-

An Indenture of Lease dated 28 October 1960 was executed by original owners of the land in favour of Petitioner No. 1, which contained an option to purchase the land by Petitioner No.1 within 20 years for specified consideration. On 19 January 1980, Petitioner No.1 exercised the option to purchase the land. The land owners however did not co-operate in the transaction of purchase. Petitioner No.1 accordingly filed Short Cause Suit No. 4243 of 1983 in City Civil Court at Bombay for specific performance of Indenture Lease dated 28 October 1960. During pendency of the Suit, by a Deed of Sub-lease, Petitioner No.1 subleased the subject property in favour of Petitioner No.2 with similar option for purchase in favour of Petitioner No.2. Disputes arose between Petitioner Nos.1 and 2, which were referred to arbitration. On 21 December 2000, an Award was passed against Petitioner No.1 directing it to transfer the subject land to Petitioner No.2.

4) In the meantime, the Suit preferred by Petitioner No.1 against the land owners came to be decreed on 8 August 2001, under which the original land owners were directed to convey the subject land to Petitioner No.1. Registrar of City Civil Court was directed to execute conveyance in favour of Petitioner No.1 and to get the same registered. Since original owners failed to execute or register conveyance, orders were passed in execution proceedings under which the Registrar of the City Civil Court executed conveyance Deed in favour of Petitioner No.1 on 29 April 2002. The Registrar of City Civil Court wrote to the Sub-Registrar of Assurances on 7 May 2002 for registration of the conveyance. Though the Deed of Conveyance was

registered in January -2003, two objections were noted in Index-II viz. (i) ULC NoC not obtained and (ii) Registrar of City Civil Court was not present for registration.

5) In the meantime, Suit No. 4485 of 2013 was filed by Petitioner No.2 on account of non-implementation of the arbitral Award. In Suit No.4485 of 2013, consent terms were filed under which Petitioner No.1 agreed to transfer rights in respect of subject land in favour of Petitioner No.2 by way of Release Deed. As Petitioner No.1 failed to execute the Release Deed, execution proceedings were initiated by Petitioner No.2 in which orders were passed directing the Registrar of City Civil Court to execute Release Deed on behalf of Petitioner No.1. Accordingly, the Registrar of City Civil Court addressed letter to the Sub-Registrar, Assurances on 4 July 2017 for grant of exemption under provisions of Section 88(1) of the Registration Act, 1908. The request made by the Registrar of City Civil Court was accepted and accordingly a Deed of Release was duly registered on 10 August 2018 in absence of Registrar of City Civil Court.

6) Since the Deed of Conveyance registered in January 2003 continued to reflect two objections in Index II, an application was preferred by Petitioner No.1 on 23 May 2017 to the Sub-Registrar of Assurances for deletion of two specified conditions. The Sub-Registrar refused to accede the request made by Petitioner No.1 which led to filing of appeal, which came to be withdrawn on 18 September 2017. Petitioner No.1 thereafter filed application under Section 68(2) of the Registration Act, 1908 challenging the objection raised by the Sub-

Registrar with regard to conveyance dated 29 August 2022. By the impugned order dated 21 May 2018 the Joint Sub-Registrar has rejected the application preferred by Petitioner No.1.

7) Accordingly, Petitioner No.1 has filed the present Petition challenging the order dated 21 May 2018 passed by the Joint Sub-Registrar as communicated vide 6 August 2018.

8) I have heard Mr. Narvekar, the learned counsel appearing for the Petitioners and Ms. Chipade, the learned AGP appearing for the Respondent -State. I have also perused the records of the case.

9) The Joint Sub-Registrar has rejected the Application preferred by Petitioner No.1 for grant of exemption to the Registrar of City Civil Court from appearing before the registering authority by referring to provisions of Section 88(1)(c) of the Registration Act. Under Section 88(1)(c), exemption is granted only to Sheriff, Receiver or Registrar of a High Court. However, under Section 88(1)(a) of the Registration Act even an officer of the State Government can be exempted from appearance before the registering authority. Registrar of the City Civil Court is also like an officer of the State Government and I do not see any reason why he could not be exempted from appearance before registering authority under Section 88 (1)(a) of the Registration Act. In any case, even in respect of subsequent transaction of Release Deed, the Sub-Registrar has permitted registration of Release Deed by acceding to the request of Registrar of City Civil Court of exemption under Section 88 and has registered the Release Deed without presence of the Court Registrar before the Registering

Authority. I do not see any reason why similar treatment cannot be given to registration of first conveyance deed dated 29 April 2002. The action of the registering authority in granting exemption to the Registrar of City Civil Court in respect of Release Deed while not granting similar exemption at the time of registration of Deemed Conveyance appears to be discriminatory.

10) Ms. Chipade contends that City Civil Court had directed the Registrar to get the conveyance registered with office of Sub-Registrar. However, mere direction to get the conveyance registered does not mean that the Registrar of City Civil Court was required to personally remain present before the Sub-Registrar. Section 88(1) of the Registration Act grants exemption to the government officers from appearing before the registering authority. In any case in respect of subsequent transaction, the registering authority has permitted Registrar of City Civil Court to get the document registered without remaining present for registration.

11) Consequently, Petition succeeds and I proceed to pass the following order:-

- (i) Order dated 21 May 2018 passed by the Joint Sub-Registrar is set aside.
- (ii) Sub-Registrar of Assurances shall forthwith proceed to delete the objection of absence of Registrar of City Civil Court noted in the Register in respect of the Deed of Conveyance dated 29 April 2002 and the Instrument shall be deemed to have been duly registered for all purposes.

12) With the above directions, Petition is **allowed and disposed of**. Rule is made absolute. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]