Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13655 OF 2017

Kumar Housing Corporation Private Limited … Petitioner

Vs.

1. **The State of Maharashtra**
2. **Inspector General of Registration and Chief Controllers of Stamps**
3. **The Deputy Inspector General of Registration and Deputy Controller of Stamps**
4. **Joint District Registrar and Collector of Stamps … Respondents**

SAYALI DEEPAK UPASANI
Digitally signed by SAYALI DEEPAK UPASANI
Date: 2026.08.20 11:26:32 +0530

Mr. Girish S. Godbole, Senior Advocate with Mr. Murlidhar Kumar and Mr. Kaustubh Thipsay for the Petitioner.

Ms. Sulbha D. Chipade, AGP for respondent Nos.1 to 4-State.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 17, 2026.

PRONOUNCED ON : AUGUST 20, 2026

JUDGMENT:

1. By this Writ Petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner has challenged the legality, validity, and correctness of the Judgment and Order dated 19 July 2014 passed by the Collector of Stamps, as well as the Order dated

16 March 2015 passed by the Deputy Inspector General of Registration and Deputy Controller of Stamps.

2. The facts which, according to the Petitioner, have resulted in filing of the present Writ Petition may be stated as follows. On 9 June 1995, the Petitioner, which was then known as Sukumar Estates Limited, entered into an Agreement with (1) Prakash Pashankar and (2) Namdev Pashankar. Under the said Agreement, the Petitioner agreed to acquire all rights, title and interest in the land bearing Survey No. 138/5, admeasuring 4 H 83 A, situated at Pashan, Pune, for a total consideration of Rs. 3,12,00,000/-. A Certificate of True Value was issued in respect of the said Agreement. At that time, stamp duty of Rs. 100/- was paid. Clause 8 of the Agreement provided that possession of the property was to be handed over to the Petitioner after measurement of the property was carried out. However, according to the Petitioner, the subsequent Supplementary Agreement confirms that actual and physical possession of the property had been handed over even before execution of the Agreement dated 9 June 1995. Thereafter, on 31 December 1999, the Petitioner entered into another Agreement with (1) Prakash Pashankar, (2) Namdev Pashankar, (3) Vadanbai Prakash Pashankar, (4) Santosh Prakash Pashankar and (5) Sandesh Prakash Pashankar. Under the said Agreement, rights, title and interest in land bearing Survey No. 138/5, admeasuring 2 H 10 A, situated at Pashan, Pune, were agreed to be conveyed in favour of the Petitioner along with Development Rights, for a consideration of Rs. 1,88,00,000/-. This Agreement was described as a Development Agreement. A Certificate of True

Value was issued in respect of this Agreement and stamp duty of Rs. 100/- was paid at that time. Clause 3 provided that possession of the property would be handed over to the Petitioner after measurement. However, according to the Petitioner, the subsequent Supplementary Agreement shows that actual physical possession had been handed over before execution of the Agreement dated 31 December 1999.

3. The documents dated 9 June 1995 and 31 December 1999 were thereafter submitted before the Collector of Stamps under Section 31 of the Maharashtra Stamp Act for adjudication. The documents were impounded under Section 33. According to the Petitioner, stamp duty was thereafter paid on both the Agreements as follows: (i) Rs. 3,12,000/- was paid on the Agreement dated 9 June 1995, under which the total consideration was Rs. 3,12,00,000/-; and (ii) Rs. 1,88,000/- was paid on the Agreement dated 31 December 1999, under which the total consideration was Rs. 1,88,00,000/-. Thus, according to the Petitioner, a total amount of Rs.5,00,000/- was paid towards stamp duty on the two Agreements.

4. On 4 September 2003, Mr. Prakash Pashankar executed two separate Supplementary Agreements in favour of the Petitioner, confirming the earlier Agreements. The Supplementary Agreement bearing Registration No. 7689 confirmed the contents of the Agreement dated 9 June 1995 and recorded that possession of the property had been handed over before execution of the Agreement dated 9 June 1995. The other Supplementary Agreement, bearing Registration No. 7690, confirmed the contents of the Agreement dated 31 December 1999 and recorded that possession of the property had been handed over before execution of that Agreement. It is the case of the Petitioner that no fresh or additional consideration was paid under either of these Supplementary Agreements. On 19 March 2012, a Deed of Conveyance was executed between Mr. Prakash Pashankar and the Petitioner. According to the Petitioner, no consideration was paid under this Deed of Conveyance. The details of the amounts which had been paid under the earlier Agreements were recorded in the Conveyance Deed. The Deed referred, in its recital, to a suit which was pending before the Civil Judge, Senior Division, Pune and which was settled on 28 July 2004. The Conveyance Deed stated that it was being executed "in full and final settlement" of all rights, title, and claims of the Vendor. The Second Schedule to the Conveyance Deed referred to an area of 57,964 sq. metres out of the total land area of 69,300 sq. metres referred to in the earlier Agreements. According to the Petitioner, the reduction in the area was because 10,750 sq. metres of land had been acquired by the Pune Municipal Corporation for road widening. The recital in the Conveyance Deed referred to the fact that possession had been handed over to the Petitioner and that the Petitioner had started development of the property. The Petitioner states that since an aggregate stamp duty of Rs. 5,00,000/- had been paid on the earlier Agreements having an aggregate consideration of Rs. 5,00,00,000/-, the Petitioner paid the balance stamp duty of Rs. 45,00,000/- at the time of execution of the Conveyance Deed. The document was thereafter duly stamped and registered.

5. On 7 November 2013, the Sub-Registrar, Haveli issued a Notice to the Petitioner stating that the market value of the property covered by the Conveyance Deed was Rs. 61,09,89,500/-. On that basis, it was alleged that the Petitioner was liable to pay deficient stamp duty of Rs. 2,60,49,475/-. Thereafter, on 19 July 2014, Respondent No. 4 passed an Order directing the Petitioner to pay the alleged deficient stamp duty of Rs. 2,60,49,475/- together with penalty at the rate of 2% per month. It was held that, in the beginning, stamp duty at the rate of 1% had been paid by giving the document the name "Development Agreement". It was held that the later attempt to refer to the Agreements of 2003 as part of a conveyance was only an afterthought. It was held that, in the year 2012, after realizing that a substantial amount of stamp duty would become payable, the Petitioner paid the remaining 9% stamp duty, amounting to Rs. 45,00,000/-. The authority held that the transactions under the earlier Agreements were different in nature and, therefore, the benefit under Section 4 could not be given to the Petitioner. The authority held that though possession of the property had been handed over to the Petitioner, such possession was only for the purpose of development of the property and was in the nature of a licence. According to the authority, possession after execution of the Conveyance Deed would stand on a different footing.

6. On 1 December 2014, the Sub-Registrar, Haveli No. 13 issued a Final Notice once again calling upon the Petitioner to pay the alleged deficient stamp duty of Rs. 2,60,49,475/-. In the year 2014, the Petitioner filed an Appeal under Section 32B of the

Maharashtra Stamp Act, 1958, being Appeal No. 22 of 2014, before Respondent No. 3. The submission of the Petitioner before the Appellate Authority was that the Agreements of 1995 and 1999 were, in substance, Agreements for Sale and that, since possession had been handed over under those Agreements, they were required to be treated as deemed conveyances. The Petitioner pointed out that, in the year 1997, a Notice had been issued calling upon the Petitioner to pay stamp duty under Article 25, but the demand made under that Notice was not accepted by the Petitioner.

7. By the Order dated 16 March 2015, Respondent No. 3 dismissed the Appeal filed by the Petitioner. It was held that, after obtaining a Certificate of True Value, it was the duty of the Petitioner to pay proper stamp duty on the concerned documents. The Appellate Authority held that since the Petitioner was contending that the Agreements dated 1995 and 1999 were Agreements for Sale which were liable to be treated as deemed conveyances because possession had been handed over, stamp duty ought to have been paid on those documents under Article 25 of Schedule I to the Maharashtra Stamp Act, 1958. It was held that the nature of the Agreements executed in the year 2012 and the Supplementary Agreements executed in the year 2003 was different. The Appellate Authority held that the property was included in the Annual Statement of Rates under the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995, and that its market value was Rs. 61,09,89,500/-. Since the market value was higher than the consideration mentioned in the documents, it was held that stamp duty at the rate of 5% was payable.

8. Mr. Girish Godbole, learned Senior Advocate appearing for the Petitioner, invited my attention to the impugned orders and submitted that both the Authorities have proceeded on a clear misunderstanding of the law. According to him, the Authorities have misdirected by proceeding on the basis that stamp duty is payable only by looking separately at each instrument and not by considering the real nature of the entire transaction. He submitted that the instruments dated 9 June 1995, 31 December 1999, 4 September 2003 and 19 March 2012 were all connected with one and the same transaction. According to him, this was one continuous transaction by which the owner of the land, namely Pashankar, conveyed the land to the Petitioner. He submitted that, once the documents are viewed in their proper sequence and in the background of the entire transaction, Section 4 of the Maharashtra Stamp Act was applicable. According to him, stamp duty on the full market value of the property had been paid under the earlier instruments. Therefore, when the Deed of Conveyance dated 19 March 2012 was executed, no stamp duty was payable on the same transaction. He submitted that the instrument dated 19 March 2012 was entitled to the benefit available under Section 4 and, therefore, the Authorities were not justified in demanding any or deficit stamp duty.

9. Mr. Godbole submitted that merely because a document is given a particular name, its real character does not get decided only by such name. According to him, the instrument dated 9 June

1995 was described as an Agreement and the instrument dated 31 December 1999 was described as a Development Agreement. However, what is important is the actual substance and effect of the documents. He submitted that under these Agreements, the entire right, title, and interest in the property were agreed to be conveyed and given to the Petitioner. The Petitioner was given the right to construct tenements and flats, sell them to purchasers and thereafter convey the building as well as the land to the occupiers or to their society. He submitted that actual physical possession of the property was handed over to the Petitioner under these Agreements. According to him, once possession was handed over and the Agreements in substance provided for transfer of rights in the land, the Agreements were required to be treated as deemed conveyances. Therefore, the description of the document as a "Development Agreement" was not conclusive. He submitted that the documents were in substance instruments relating to sale and transfer of the land. Since stamp duty on the full market value had been paid in respect of those instruments, the Respondents were bound to give credit and benefit of such stamp duty under Section 4 while considering the instrument dated 19 March 2012. According to him, no deficit stamp duty could therefore have been declared payable.

10. Mr. Godbole then referred to Section 2(na) of the Maharashtra Stamp Act, 1958, which defines "market value" in relation to any property forming the subject matter of an instrument. He submitted that the definition means the price which such property would have fetched if it had been sold in the open market on the date of execution of the instrument or the consideration stated in the instrument, whichever is higher. He submitted that, in the present case, the consideration mentioned in the Agreements dated 9 June 1995 and 31 December 1999 was higher than the market value of the property on the respective dates of execution of those Agreements and the subsequent Confirmation Deeds. According to him, therefore, for the purpose of calculation of stamp duty, the consideration mentioned in the relevant documents, being higher than the market value as determined on the relevant date, was required to be taken into account. He submitted that the Authorities could not ignore the market value and consideration prevailing on the date of execution of the earlier instruments and determine the liability by applying the market value prevailing at a later point of time.

11. Mr. Godbole relied upon the judgment of this Court in *Jitendra Manohardas Thakker and Anr. vs. The Deputy Inspector General of Registration and Deputy Controller of Stamps and Others,* Writ Petition No. 2370 of 2024, decided on 16 February 2026. He relied upon the decisions in *Suhas Damodar Sathe vs. State of Maharashtra and Another,* reported in 2025 SCC OnLine Bom 576, and *Thakkar Investment and Finance Company vs. Chief Controlling Revenue Authority and Inspector General of Registration and Controller of Stamps and Others*, reported in 2026 SCC OnLine Bom 4685.

12. Ms. Sulbha Chipade, learned AGP, on the other hand, supported the impugned orders. She invited my attention to Paragraph 5(g-a) of Schedule I and submitted that stamp duty is payable under Article 25 in respect of an Agreement and the records or memorandum relating to such Agreement. According to her, the different documents involved in the present case are separate instruments and are different in nature. She submitted that, for this reason, the stamp duty paid on a document described as a Development Agreement cannot be deducted against the stamp duty payable on an Agreement for Sale. According to her, since the nature and character of the documents are different, the benefit claimed by the Petitioner by way of deduction of stamp duty paid on the Development Agreement cannot be granted.

13. Ms. Chipade submitted that Documents Nos. 7689 and 7690 of the year 2003 are Development Agreements, whereas Document No. 2414 of the year 2012 is an Agreement for Sale. According to her, both these documents are different and independent documents. Therefore, stamp duty is required to be determined on the market value of the property covered by the respective documents in accordance with Article 25 of Schedule I to the Maharashtra Stamp Act. She submitted that the decision of this Court in Writ Petition No. 9923 of 2014, *M/s Prasun Developers vs. Government of Maharashtra & Ors.,* decided on 30 January 2015, is applicable to the facts of the present case and supports the action taken by the Authorities.

14. Ms. Chipade submitted that, under the Maharashtra Stamp (Determination of True Market Value of Property) Rules, 1995, the property in question falls in the category of Department No. 20/354.1. According to her, after taking into consideration Notice No. 16 B, the applicable rate for the property was Rs. 16,800/- per square metre. On that basis, the total market value of the property was determined at Rs. 61,09,89,500/-. She submitted that this market value was required to be considered in accordance with Section 2(na) of the Maharashtra Stamp Act. Since the property was situated within the limits of a Municipal Corporation, stamp duty at the rate of 5% was payable under Article 25(B)(i) of Schedule I. According to her, on the market value so determined, the total stamp duty payable came to Rs. 3,05,49,475/-. She submitted that, after giving credit for the amount of Rs. 45,00,000/- paid by the Petitioner, the balance amount of Rs. 2,60,49,475/- remained payable. According to her, the said amount was therefore liable to be recovered from the Petitioner. She submitted that the Petitioner was liable to pay the maximum penalty, namely twice the amount of the deficient stamp duty, together with penalty at the rate of 2% per month from 19 March 2012, as provided under Section 32A(4) of the said Act.

REASONS AND ANALYSIS:

15. I have considered the rival submissions made by both the parties. I have gone through the Agreements dated 9 June 1995 and 31 December 1999, the translated order placed on record, the impugned orders and the relevant provisions of law to which my attention has been invited by the learned counsel. In my view, the real question is about the actual legal nature of the rights which were created under these documents. It is necessary to see whether all these instruments were used for completing one transaction and, if that is so, whether the Deed of Conveyance dated 19 March 2012 could again be subjected to stamp duty by taking the market value prevailing in the year 2012.

16. The learned Senior Advocate appearing for the Petitioner submitted that the documents dated 9 June 1995, 31 December 1999, 4 September 2003, and 19 March 2012 were all part and different steps of one transaction. According to him, the transaction had started when the owners agreed to transfer their rights in the land in favour of the Petitioner and possession was handed over. The later documents were only steps for completing and recording the same transaction. On the other hand, the learned AGP supported the orders passed by the Authorities. According to her, the earlier documents were Development Agreements, whereas the document of the year 2012 was an Agreement for Sale or Conveyance. Therefore, these were different instruments and separate stamp duty liability was attracted on each of them.

17. Before going into these rival submissions, it is necessary to see the documents. The document dated 9 June 1995 is described as an "AGREEMENT". The clause regarding possession records that "The direct open and vacated possession of the said property is to be given by the Giver in Writing to the Taker in Writing by taking Govt. measurement of the said property." The same document gives substantial rights to the Petitioner in respect of development of the property. It states that "You will have full rights and authority to commence construction development on the said property by entering the said property for carrying out development and to complete the same by carrying out construction of building." It is recorded that the rights and licence for development would continue until the full ownership rights were changed in favour of the purchasers, societies or nominees.

18. The Agreement dated 31 December 1999 shows that substantial rights were given to the Petitioner. The document records that “Entire rights and authority have been given to you to commence Construction development on the Said property by entering the Said property for Carrying out development and to complete the Same by carrying out construction Of building.” It records that “open and actual possession of the property described in the above para 1 has been given today by us to you for development work”. However, the same clause connects such possession with the future documents of transfer and with ownership of the property being transferred in the name of the Petitioner or its nominees. Therefore, this document cannot be understood only as an ordinary permission for doing development work. At the same time, the document says that possession was given “for development work” and refers to the right and licence continuing till the ownership rights were changed. Thus, the submission of the Petitioner that the nomenclature of the documents is not conclusive deserves to be accepted. A document may be called an Agreement, Development Agreement or Supplementary Agreement. Only the name given to the document cannot decide the liability towards stamp duty. The contents of the document, the rights created under it, the nature of possession and the legal effect of the document are required to be seen. Even the translated material placed on record shows the contention of the Petitioner that “The registered instruments are agreements of sale and not development agreements" and that actual possession had been handed over. The same material shows that merely because the registering authority treated a document as a development agreement, the real nature of that instrument was still required to be decided from its substance.

19. However, this by does not mean that the whole contention of the Petitioner has to be accepted as it is. The documents of the years 1995 and 1999 contain provisions relating to transfer of property, development rights and possession. Therefore, whether these documents are called agreements for sale, development agreements or documents having some mixed character, the important question in the present matter is whether they formed part of the same transaction which was completed by the Conveyance Deed dated 19 March 2012.

20. In this background, Section 4 becomes important. The relevant provision reads as follows:

> "Section 4. Several instruments used in single transaction of development agreement, sale, lease, mortgage or settlement.—
>
> (1) Where, in the case of any development agreement, sale, lease, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I for the conveyance, development agreement, lease, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of five hundred rupees instead of the duty (if any) prescribed for it in that Schedule."

21. The Section 4 applies where "several instruments are employed for completing the transaction". Therefore, the enquiry is not limited only to finding whether all documents have the same title or whether they were executed on the same date. What is required to be seen is whether several instruments were in fact used for completing one transaction of sale, development agreement, lease, mortgage, or settlement.

22. Sub-section (2) provides that the parties may decide which one of the instruments is to be treated as the principal instrument. Sub-section (3) provides that if the parties do not determine the principal instrument, the Officer before whom the document is produced may determine the same. The proviso states:

> "Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed."

23. Therefore, Section 4 cannot be understood to mean that stamp duty can be avoided. The provision protects the revenue because the principal instrument is required to bear the highest stamp duty which would be chargeable amongst the several instruments used for completing the transaction. At the same time, the provision does not permit the same transaction to be treated as separate transactions only because more than one instrument was executed for completing the same.

24. In the present matter, the record shows a continuous connection between the earlier transactions and the Conveyance Deed dated 19 March 2012. The translated order records that the parties had executed the Agreements dated 9 June 1995 and 31 December 1999. These were registered as Documents Nos. 7689/2003 and 7690/2003. Thereafter, the Conveyance was registered on 19 March 2012 as Document No. 2414/2012. The material on record shows that the Conveyance related to the property which was the subject matter of the earlier documents. At the time of registering the Conveyance in the year 2012, the Authorities treated the earlier documents as having connection with the Conveyance. The aggregate consideration under the earlier transactions was taken as Rs. 5,00,00,000/-. On that basis, duty at the rate of 10% was calculated at Rs. 50,00,000/-. After giving credit of Rs. 5,00,000/-, which was paid on the earlier documents, the Petitioner paid the balance amount of Rs. 45,00,000/- at the time of the Conveyance. This factual position is recorded in the material available on record.

25. For the purpose of registration of the Conveyance in 2012, the Authorities treated the earlier transactions as connected with the Conveyance and gave credit for the stamp duty paid. Thereafter, for making a demand, the Authorities proceeded as if the earlier transactions and the Conveyance were unrelated transactions. In my view, these two positions do not go together.

26. The learned AGP has submitted that Documents Nos. 7689 and 7690 of the year 2003 were Development Agreements, whereas Document No. 2414 of the year 2012 was an Agreement for Sale or Conveyance. It is submitted that the nature of these documents is different, and the stamp duty paid on the earlier Development Agreements cannot be adjusted against the subsequent instrument.

27. I am unable to accept this submission in the manner in which it is made. Section 4 applies where several instruments are employed for completing a single transaction of, amongst other things, “development agreement” or “sale”. Therefore, merely because one document may have the character of a development agreement and the final document is a conveyance, that fact by cannot take the matter outside the scope of Section 4. The entire transaction is required to be examined. In the present case, the earlier documents gave extensive rights in respect of the property to the Petitioner and the question of possession was dealt with therein. The subsequent Supplementary Agreements recorded that possession had been handed over. The final Conveyance does not appear to have started a new transaction. It was executed for completing the transfer of rights which was the subject matter of the earlier arrangements. The record shows that the area conveyed was less than the area mentioned in the earlier documents because part of the land had been acquired for road widening. This circumstance shows that the final Conveyance was concerning the same original land transaction, though the area available for final conveyance had changed during the period in between. Merely because the final document covered the remaining available area, it does not create a new transaction separate from the earlier agreements.

28. The Authorities have relied upon the conduct of the Petitioner. According to them, the Petitioner adopted different descriptions of the documents at different stages according to its convenience. The translated order records that the parties described the documents differently before different authorities and, according to the Authority, this resulted in avoiding stamp duty on the market value prevailing at the relevant time.

29. There is some substance in the criticism that the Petitioner's stand regarding the exact character of the earlier instruments has not remained consistent. The record shows that stamp duty at the rate of 1% was paid on the earlier documents under Article 5(g-a). The appellate order records that the Petitioner relied upon the documents being agreements for sale with possession, whereas at an earlier stage they were treated as development agreements for payment of stamp duty. However, inconsistency in the description given by a party cannot authorise the Authorities to levy stamp duty contrary to the statutory scheme. Stamp duty is required to be determined according to the real nature and legal effect of the instrument. The liability cannot be decided only on the basis of estoppel when the document and the provisions of law require examination of its real substance.

30. The appellate Authority has observed that because the Petitioner paid stamp duty under Article 5(g-a), it was not open for the Petitioner to later contend that the documents were agreements for sale. The Authority has relied upon what is described as the “Principle of Estopel”. In my view, this reasoning by is not sufficient for deciding the legal nature of the instrument. If, on proper reading, an earlier instrument attracted a particular provision of the Stamp Act, its stamp duty liability was required to be determined according to law. The description accepted earlier by the Authority or adopted by the party cannot change the character of the document.

31. Article 5(g-a), relied upon by the Respondents, relates to an Agreement "if relating to giving authority or power to a promoter or a developer, by whatever name called, for construction on, development of or, sale or transfer (in any manner whatsoever) of, any immovable property." The duty prescribed is "The same duty as is leviable on a Conveyance under clause (b), [or (c)], as the case may be, of Article 25, on the market value of the property". Therefore, Article 5(g-a) does not support an approach that a document called a Development Agreement can be separated from the final transfer without examining the rights created under that document. The provision deals with an agreement giving authority for development, sale or transfer of immovable property. Therefore, the real substance of the document remain important.

32. The next important question concerns the market value applicable to the transaction. Section 2(na) provides:

> "Section 2 (na) "market value" in relation to any property which is the subject matter of an instrument, means the price which such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument, whichever is higher;"

33. The statutory definition makes the date of execution of "such instrument" relevant. Therefore, where a particular instrument is independently liable for ad valorem stamp duty, its market value has to be considered with reference to the date on which that instrument was executed, subject to the consideration stated in it being higher. The Authorities have proceeded on the basis that the market value of the property on 19 March 2012 was Rs. 61,09,89,500/- and, therefore, stamp duty at the rate of 5% was payable on that value. After deducting Rs. 45,00,000/- paid by the Petitioner, deficit stamp duty of Rs. 2,60,49,475/- has been demanded. Such a conclusion could have been possible if the Conveyance dated 19 March 2012 was to be treated as a independent instrument involving a new transfer, with no relevance of the earlier documents under Section 4. However, that is not the factual position which comes from the record. The calculation made at the time of registration of the Conveyance shows that the earlier instruments and the consideration of Rs. 5 crore were treated as relevant for the final Conveyance and credit was given for the stamp duty paid. The first order records that the earlier documents were used as the basis for calculating stamp duty at the time of registration of the Conveyance in 2012. It records that the aggregate consideration in the earlier documents was Rs. 5 crore, the duty calculated on that amount was Rs. 50 lakh and, after adjusting the earlier payment of Rs. 5 lakh, an amount of Rs. 45 lakh was collected.

34. Once this factual position is accepted, the question is whether, after registration of the Conveyance and acceptance of stamp duty on that basis, the Authorities could again treat the document of 2012 as a fresh and independent transaction and calculate duty on the market value of Rs. 61,09,89,500/-. In my view, the answer has to be in the negative, considering the applicability of Section 4 to the facts of the present case. The purpose of Section 4 is not that no stamp duty is payable on the transaction. The purpose is that where several instruments are used for completing the same transaction, full duty is payable on the principal instrument, while the other instruments do not attract repeated ad valorem duty in respect of the same transaction. In the present matter, the Authorities proceeded on the basis of the aggregate transaction value of Rs. 5 crore and collected the balance duty after giving credit for the amount paid.

35. The submission of the Petitioner that the market value or consideration prevailing under the earlier instruments must be accepted cannot be accepted only because the Petitioner relies upon certificates issued under Section 269UL of the Income Tax Act. Such certificates issued by the Appropriate Authority do not determine the market value for the purpose of the Maharashtra Stamp Act. The first order correctly records that such certificates only show no objection to the proposed transfer for the apparent consideration and do not fix the market value for stamp duty purposes. Therefore, the Petitioner's reliance upon the Income Tax certificates for determining the market value is rejected to that extent. However, this does not decide the controversy against the Petitioner. The case of the Petitioner succeeds on a different basis, namely that the instruments formed part of one transaction and were required to be considered under Section 4.

36. The Respondents have relied upon the Annual Statement of Rates and the rate of Rs. 16,800/- per square metre. On that basis, the market value of Rs. 61,09,89,500/- was arrived at. This calculation is based upon the assumption that the market value prevailing on 19 March 2012 was relevant for imposing full ad valorem stamp duty on the Conveyance. There is no material placed before this Court to show that the mathematical calculation based upon the applicable Annual Statement of Rates was, by, incorrect. The case of the Petitioner does not require this Court to hold that the market value of the property in 2012 was not Rs. 61,09,89,500/-. That question loses its importance once it is held that the instrument of 2012 was one amongst several instruments employed for completing the earlier transaction and was required to be considered under Section 4.

37. The impugned orders have proceeded on the basis that because the earlier documents and the final Conveyance were described differently, Section 4 could not apply. This approach does not consider the statutory requirement whether the several instruments were "employed for completing the transaction". The Authorities have concentrated on the separate names and descriptions of the documents. The continuous nature of the transaction and the fact that the final Conveyance completed the transfer contemplated under the earlier arrangements has not been given proper effect. The first Authority has observed that possession under the earlier documents was only for development and was in the nature of a licence, whereas possession after execution of the Conveyance was different. It is true that the earlier documents use words concerning development rights and licence. However, the documents give substantial authority to the Petitioner to enter the property, carry out construction and development and continue such rights until the ownership rights were transferred. The document of 1999 records actual and open possession. Therefore, even if the possession under the earlier instruments was described as being for development, that fact by does not establish that the subsequent Conveyance was a separate transaction having no connection with those instruments. The later Conveyance was for completing the transfer contemplated under the earlier arrangements. Section 4 deals with such a situation where more than one instrument is used for completing one transaction.

38. The appellate Authority has referred to the failure of the Petitioner to register the earlier documents within the prescribed period and has treated such delay as a circumstance against the Petitioner. The material shows that the earlier agreements were executed in 1995 and 1999, whereas the Supplementary Agreements were registered in 2003. The record shows that the Authority considered the provisions of the Registration Act concerning delayed presentation. Such circumstance may have consequences under the Registration Act or in relation to the manner in which the earlier documents were dealt with. However, delay in registration cannot convert a transaction which otherwise appears to be one continuous transaction into several independent transactions for the purpose of Section 4. The question under Section 4 still remains whether the several instruments were employed for completing one transaction. That question has to be answered by considering the documents and the whole transaction together.

39. The Authorities have referred to a notice dated 23 December 1997. According to the record, the Petitioner was informed that the earlier document was liable to stamp duty under Article 25 as an Agreement for Sale or deemed conveyance. The appellate order records that despite this notice, the Petitioner did not pay stamp duty at that stage and paid duty at the rate of 1%. This circumstance does show that the conduct of the Petitioner in relation to payment of stamp duty cannot be said to be free from doubt. It shows that the Revenue had, at an earlier stage, considered the document from another legal angle. However, the present proceeding is concerned with the legality of the demand of Rs. 2,60,49,475/- on the Conveyance dated 19 March 2012. The conduct of the Petitioner, by, cannot justify a demand which otherwise is not consistent with Section 4. It is necessary to note that the final order directs payment of the alleged deficit stamp duty together with penalty at the rate of 2% per month from the date of execution. The appellate Authority has referred to maximum fine and recovery as arrears of land revenue. The translated order records the conclusion that the document of 2012 was under stamped by Rs. 2,60,49,475/- and directs recovery together with 2% monthly penalty. The foundation of the entire demand is the conclusion that the Conveyance dated 19 March 2012 was liable for stamp duty on the market value prevailing in the year 2012. Once this conclusion cannot be sustained because of the application of Section 4, the consequential demand of deficit stamp duty and the penalty based upon such alleged deficit cannot survive.

40. I am, therefore, of the view that this is not a case where the Petitioner can contend that no stamp duty at all was payable on the transaction. It is not possible to accept the Petitioner's submission that the Income Tax certificates fixed the market value for stamp duty purposes. These submissions are rejected to that extent. At the same time, the submission of the Respondents that the earlier Development Agreements and the subsequent Conveyance were separate transactions cannot be accepted. The material on record does not support such a conclusion. The documents show a continuous transaction concerning the same property, the same owners and the Petitioner. Under these documents, rights were created from time to time, possession was dealt with, and the transaction was completed by execution of the Conveyance.

41. On overall consideration of the material, I hold that the Agreements dated 9 June 1995 and 31 December 1999, the subsequent instruments and the Conveyance dated 19 March 2012 were several instruments employed for completing one transaction within the meaning of Section 4 of the Maharashtra Stamp Act, 1958. Merely because different names were given to the documents, that by cannot change this conclusion. Consequently, the benefit of Section 4 could not have been refused only because the earlier documents were described as Development Agreements and the later instrument was described as a Conveyance or Agreement for Sale. The Authorities were required to consider the transaction as a whole and determine the principal instrument for the purpose of charging the highest duty as contemplated by

Section 4. In the present case, the manner in which stamp duty was accepted by taking the aggregate consideration of Rs. 5 crore and by giving credit for the amount paid shows that the instruments were treated as connected parts of the same transaction. The later demand based upon the market value of the property as on 19 March 2012, after ignoring the earlier connected instruments for the purpose of Section 4, amounts to treating the same transaction as if a fresh and independent transfer had taken place in the year 2012. Such an approach is not in accordance with the scheme of Section 4.

42. For these reasons, the finding of the Authorities that the Petitioner was liable to pay deficit stamp duty of Rs. 2,60,49,475/- on the basis of market value of Rs. 61,09,89,500/- cannot be sustained. The consequential direction for payment of penalty at the rate of 2% per month and other recovery based upon the said alleged deficit cannot survive. The impugned Judgment and Order dated 19 July 2014 passed by the Collector of Stamps and the Order dated 16 March 2015 passed by the Deputy Inspector General of Registration and Deputy Controller of Stamps are, therefore, required to be set aside.

43. In view of the above discussion, the following order is passed:

(i) The Writ Petition is allowed;

(ii) The Judgment and Order dated 19 July 2014 passed by Respondent No. 4, the Collector of Stamps, and the Order dated 16 March 2015 passed by Respondent No. 3, the

Deputy Inspector General of Registration and Deputy Controller of Stamps, are quashed and set aside;

(iii) The demand for alleged deficit stamp duty of Rs. 2,60,49,475/- in respect of the Deed of Conveyance dated 19 March 2012, together with the consequential penalty and other charges, stands quashed and set aside;

(iv) It is declared that, in the facts of the present case, the instruments forming part of the transaction are required to be considered in accordance with Section 4 of the Maharashtra Stamp Act, 1958, and the Respondents could not treat the Deed of Conveyance dated 19 March 2012 as a wholly independent transaction for levying fresh stamp duty on the market value determined as on the date of execution of the said Deed;

(v) Rule is made absolute in the above terms.

(vi) There shall be no order as to costs.

(AMIT BORKAR, J.)