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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1962 OF 2026

Kalpataru Gardens Limited & Anr.	}	Petitioners
Versus		
The State of Maharashtra & Ors.	}	Respondents

Mr. Surel Shah, Senior Advocate with Mr. Paritosh Jaiswal, Ms. Aditi Nagayach and Mr. Makarand Savant i/b. Perfect Law Solutions, Advocates for the Petitioners.

Mr. Prashant Kamble, AGP for Respondent Nos. 1 to 4.

**CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.**

**RESERVED ON: 23rd SEPTEMBER, 2026
PRONOUNCED ON: 29th SEPTEMBER, 2026**

JUDGMENT: [Per: Chief Justice]

1. Heard the learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith. By consent of the learned Counsel appearing for the parties, heard finally.
3. By this Petition under Article 226 of the Constitution of India, the Petitioners, *inter alia*, pray for the following substantive reliefs: -

“(A) That this Hon’ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records, papers and proceedings pertaining to the said impugned Order dated 3rd April 2025 passed by Respondent No. 3 and after examining the legality and validity thereof, be pleased to quash and set aside the said impugned Order No. 1 dated 3rd April 2025 (to the extent, it records that the said Indenture is not eligible for registration);

- (B) *That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records, papers and proceedings pertaining to the said impugned Order no. 2 dated 24th April 2025 passed by Respondent No. 4 and after examining the legality and validity thereof, be pleased to quash and set aside the said impugned Order dated 24th April 2025;*
- (C) *That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India directing the Respondents to register the said Indenture of Lease dated 14th July 2017 without charging any penalty for the same."*

4. The case of the Petitioners is that the Petitioner No. 1 entered into an Indenture of Lease dated 14th July 2017 with Petitioner No.2. Under the said Indenture of Lease, the Petitioner No.1, in favor of Petitioner No. 2, demised a parcel of non-agricultural land admeasuring 1050 square meters situated at Survey No. 201 (Part), CTS No. 283/A(Part) of Village Bhandup, Taluka Kurla, Mumbai Suburban District for a period of 999 years commencing from 14th July 2017. This being subject to the terms and conditions stipulated in the Indenture of Lease at the annual lease rent of Rs.1/- and for a one-time premium of Rs. 5 crores paid by Petitioner No. 2 to the Petitioner No. 1, on or before execution of the said Indenture of Lease.

5. Pursuant to the Application dated 24th July 2017, for adjudication of stamp duty on the said Indenture of Lease, the Petitioner No. 1 submitted the same to Respondent No. 3 - Collector of Stamps on 9th August 2017 for adjudication.

6. In regard to the above, on 15th December 2017, Respondent No. 3 – Collector of Stamps passed an order upon such Application made by the Petitioner No. 1, calling upon it to pay the stamp duty

of Rs. 60,59,350/-.

7. The record indicates that aggrieved with the method of valuation adopted by the Respondent No. 3 - Collector of Stamps, the Petitioner No. 1 preferred an Appeal on 14th February 2018 before the Additional Controller of Stamps, Mumbai under Section 32B of the Maharashtra Stamp Act, 1958 ("**Stamp Act**" for short).

8. Upon hearing the parties in the Appeal, the Additional Controller of Stamps, Mumbai passed an order on 16th August 2018. By the said Order, the Appeal of the Petitioner No. 1 was allowed, calling upon the Respondent No. 3 - Collector of Stamps, to reassess the matter, after considering the issues raised by the Petitioner No. 1.

9. Consequent to the above, the office of Respondent No. 3 - Collector of Stamps held hearing on 5th October 2018 and Petitioner No. 1 was directed to file its written submissions in the matter. Vide an Interim Order dated 7th December 2018, the Respondent No. 3 - Collector of Stamps determined the market value of the demised land at Rs. 8,65,62,000/- and under Article 36(iv) of the Stamp Act adjudicated the stamp duty at Rs. 43,28,100/-.

10. Upon receipt of the Interim Order on 21st December 2018, Petitioner No.1 filed a formal objection by way of letter dated 2nd January 2019 stating that the Interim Order does not set out and explain the method of computation/determination of the market value stated therein. Vide the said letter, Petitioner No. 1 also prayed for providing the methodology of computation/determination of the market value. Petitioner No. 1 did not receive any reply/response from Respondent No. 3 - Collector of Stamps to the

its letter dated 2nd January 2019.

11. The Petition proceeds on the basis that due to COVID-19 Pandemic, the proceedings could not be finalized. Later on, Petitioner No. 1, once again moved an Application on 31st January 2024 under the Maharashtra Stamp Duty Amnesty Scheme 2023 for getting the benefit provided thereunder regarding reduction in stamp duty. Pursuant to the said Application, Respondent No. 3 - Collector of Stamps passed another Interim Order dated 21st March 2024, vide which, an amount of Rs. 32,46,075/- was adjudicated as stamp duty and further a penalty of Rs. 6,66,527 was imposed on the Petitioner No. 1. Even in the said proceedings, Petitioner No. 1 raised an objection vide letter dated 27th March 2024, highlighting certain discrepancies and oversight in processing the said Application.

12. Resultantly, Respondent No. 3 - Collector of Stamps passed a revised Interim Order on 24th March 2025 adjudicating the stamp duty on the said Indenture of Lease at Rs. 22,25,888/-. On 27th March 2025, since the Petitioner No. 1 made payment of the said adjudicated stamp duty of Rs. 22,25,888/-, on 1st April 2025, the Respondent No. 3 - Collector of Stamps made an endorsement on the said Indenture of Lease that the stamp duty of Rs.22,25,888/- has been already paid and the said Indenture of Lease is duly stamped.

13. On the basis of the aforesaid, on 3rd April 2025, Respondent No. 3 - Collector of Stamps passed a Final Order thereby confirming its Interim Order dated 24th March 2025. Such final order (Impugned Order No. 1) also records that since the document was

executed on 14th July 2017, as per the Circular No. Ka.4/P.No.617/2011/3008 dated 22nd December 2011 issued by the Inspector General of Registration and Controller of Stamps, the said document is not eligible for registration.

14. Thereafter, the Petitioner No. 1, sent a letter dated 16th April 2025 to the Respondent No. 4 - Joint Sub-Registrar, Class-2. The communication briefly stated the reasons causing delay in lodging the said Indenture of Lease, for registration and requested to accept the said Indenture of Lease for registration.

15. The request of the Petitioner No. 1 was rejected vide order dated 24th April 2025 (Impugned Order No. 2) on the ground that the said Indenture of Lease was not submitted for registration within the time limit prescribed under Sections 23 and 24 of the Registration Act, 1908 ("**Registration Act**" in short). The Respondent No. 4 - Joint Sub-Registrar, raised an objection under Section 25 of the Registration Act stating that the power to condone the delay is only up to 4 months beyond the initial period and even such period had lapsed.

16. Mr. Surel Shah, the learned Senior Counsel appearing on behalf of the Petitioners, in this backdrop, vehemently submitted that the impugned action on the part of the Respondents is arbitrary and unreasonable. This in as much as the delay in not presenting the document for registration within the prescribed limit of 4 months as prescribed under Section 23 of the Registration Act was beyond the control of the Petitioners. It is submitted that the said Indenture of Lease was lodged for adjudication in the year 2017, which was finally adjudicated on 3rd April 2025.

17. Mr. Shah would urge that the Petitioners had made all attempts by approaching the Authorities seeking earlier adjudication and determination of the stamp duty payable on the said Indenture of Lease. The record clearly reflects that the Petitioner No. 1 preferred an Appeal against such rejection and then subsequently, the matter was finally settled on 3rd April 2025. As such, in the facts and circumstances of the case, there was no delay whatsoever on the part of the Petitioners.

18. Mr. Shah submitted that the inaction and refusal on the part of the Respondents in not accepting the said Indenture of Lease, for registration is contrary to law. He relied upon a Division Bench Judgment of this Court in the case of ***Nestor Builders & Developers Pvt. Ltd. vs. State of Maharashtra & Ors.***¹ and submitted that refusal to register the Indenture of Lease is patently bad in law. He further relied upon an Order passed by a Division Bench of this Court on 19th July 2018 in the case of ***Kanani Developers LLP & Anr. vs. The State of Maharashtra & Ors.***². He submitted that in the instant case, the facts are admitted to the extent the process of adjudication was commenced on 9th August 2017 and the same was completed by Respondent No. 3 – Collector of Stamps on 3rd April 2025 and admittedly, the Application for adjudication was pending. Therefore, the Petitioners could not lodge/present the said Indenture of Lease for registration. The period taken by Respondent No. 3 – Collector of Stamps for adjudication cannot be held against the Petitioners while computing the period of limitation. In case no relief is granted in favour of the Petitioners, they would suffer irreparable prejudice.

¹ 2015 SCC OnLine Bom 3480

² Writ Petition No. 1066 of 2018

19. On the contrary, Mr. Prashant Kamble, learned AGP for the Respondents, vehemently opposed the Petition and reiterated the objection so taken in the Affidavit-in-Reply. He relied upon the relevant provisions of the Registration Act and submitted that in view of the provisions contained in Section 23 of the Registration Act, it is the paramount responsibility of the parties to place the instrument for registration well within 4 months from the date of its execution. He submitted that the Petitioners could not submit the Indenture of Lease dated 14th July 2017 executed between them for registration within the stipulated time period. He submitted that the Respondent No. 3 - Collector of Stamps has already passed an order way back on 15th December 2017 thereby fixing the stamp duty on the said Indenture of Lease at Rs. 60,59,350/-. Therefore, at this stage, as the Respondent No 3 had already taken its decision on 15th December 2017, the computation of the period of limitation is to be reckoned from 15th December 2017.

20. For such reasons, Mr. Kamble would urge that there is no infirmity and illegality which warrant interference in the Impugned Orders. The Impugned Orders are, therefore, valid and no case is made out by the Petitioners and the Writ Petition deserved to be dismissed.

21. We have heard the Learned Counsel for the parties and with their assistance perused the record. The facts as noted above clearly indicate that the dispute in question revolves around the refusal of the Respondent Authorities to register the said Indenture of Lease dated 14th July 2017, primarily on the ground of delay as the same was not presented for registration by the Petitioner No. 1 in the stipulated 4 month period.

22. We find that Petitioner No. 1 had submitted the said Indenture of Lease for adjudication before Respondent No. 3 – Collector of Stamps on 9th August 2017. The Respondent No. 3 thereafter, passed Interim Orders including the one dated 21st December 2018, pursuant to which, the Petitioner No. 1 also wrote to the said Respondent vide letter dated 2nd January 2019, in regard to providing the methodology/computation of the market value for stamp duty purposes. It appears that the said letter was not responded to by the Respondent No. 3. However, due to the onset and continuation of the COVID-19 Pandemic, the proceedings of adjudication of stamp duty on the said Indenture of Lease, could not be finalized. Undisputedly, the Petitioner No. 1 again moved an Application on 31st January 2024 under the Maharashtra Stamp Duty Amnesty Scheme 2023 seeking benefits available thereunder.

23. As the Application of the Petitioner No. 1 for adjudication of stamp duty remained undecided, he continued to pursue the same with the Respondent Authorities. The factual matrix clearly indicates that the Respondent No. 3 passed an Interim Order dated 21st March 2024, under which, an amount of Rs. 32,46,075/- was adjudicated as stamp duty and further a penalty of Rs. 6,66,527 was imposed on the Petitioner No. 1. However, considering the objection raised by Petitioner No. 1, the Collector of Stamps - Respondent No.3 passed a revised Interim Order on 24th March 2025 (Exhibit 'J') adjudicating the stamp duty on the subject Indenture at Rs.22,25,888/-. Consequently, on 27th March 2025, since Petitioner No. 1 made payment of the stamp duty of Rs.22,25,888/-, on 1st April 2025, against which, Respondent No. 3 made an endorsement evidencing payment receipt.

24. We find that thereafter on such basis, on 3rd April 2025,

Respondent No. 3 passed its Final Order thereby confirming its Interim Order dated 24th March 2025, holding that the said Indenture of Lease is not eligible for registration, more particularly, on account of the Circular dated 22nd December 2011 (supra). Thereafter, the request of the Petitioner No 1 to accept the said Indenture of Lease for registration was rejected by the Respondent No. 4 vide Order dated 24th April 2025 (Impugned Order No. 2), primarily on the ground that the said Indenture of Lease was not submitted for registration within the time limit prescribed under Sections 23 and 24 of the Registration Act, as noted in the factual matrix above.

25. To examine the issue that confronts us, it would be appropriate to examine the relevant provisions namely Section 23, 23A, 25 and 26 of the Registration Act which read thus:-

“23. Time for presenting documents

Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

PROVIDED *that a copy of a decree or order may be presented within four months from the date on which the decree or order was made or, where it is appealable, within four months from the day on which it becomes final.*

23A. Re-registration of certain documents :

Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub- Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is

invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it has not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such reregistration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration:

PROVIDED that, within three months from the twelfth day of September, 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for reregistration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.]

25. Provision where delay in presentation is unavoidable:- (1) if, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in (India) is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. Documents executed out of (India) – When a document purporting to have been executed by all or

any of the parties out of (India) is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied-

(a) that the instrument was so executed, and

(b) that it has been presented for registration within four months after its arrival in (India),

may, on payment of the proper registration fee, accept such document for registration.”

(emphasis supplied)

A cumulative reading of the aforesaid provisions and more particularly Section 25 of the Registration Act, evidently postulates the intention of the legislature. This being that if a certain document in a given situation cannot be presented for registration within the period of four months prescribed under Section 23 of the Registration Act, it can still be accepted for registration, beyond the prescribed period as stipulated therein. Accordingly, the registration cannot be refused if the delay on the part of the party presenting the document for registration, beyond the prescribed period, is *bonafide*, not intentional/deliberate and was on account of a genuine reason/cause, beyond the control of such party.

26. In our view, a substantive legal right accrued to the Petitioners to have the document registered under the provisions of the Registration Act cannot stand defeated, merely on account of some delay, which is definitely not attributable to the party presenting the document for registration, that too for reasons beyond its control. The legal position in this regard has been succinctly enunciated in the decision of the Supreme Court in the case ***Raj Kumar Dey and Others Vs. Tarapada Dey and Others***³.

³ AIR 1987 SC 2195

This decision concerned registration of an Award dated 28th November 1977. In the said proceedings adopted by the parties under the Arbitration Act 1940, the Award had remained in the custody of the Court. An Application was made by the Arbitrators to return the Award, so as to enable them to present the same before the Sub Registrar for registration. An order came to be passed in January, 1980 on the said Application whereby the Sub-Judge ordered return of the Award to the Arbitrators to enable them to present it for registration. In further proceedings on 24th November 1983, the Arbitrators got back the Award from the Court and on the next day i.e. on 25th November 1983, the Arbitrators presented the Award before the Sub-Registrar who registered the Award on 25th November 1983. By order dated 19th June 1986, the High Court quashed such registration under Article 227 of the Constitution holding that the Award has been presented for registration beyond time. In considering the challenge to this order of the High Court, the Supreme Court while holding that the delay from the period 20th November 1977 to 25th November 1983 (about 6 years) was rightly excluded by the Sub-Registrar. In Paragraphs 6 and 7 the Supreme Court has observed thus:-

“6. We have to bear in mind two maxims of equity which are well settled, namely, “ACTUS CURIAE NEMINEM GRAVABIT”- An act of the Court shall prejudice no man. In Broom’s Legal Maxims. 10th edition, 1939 at page 73 this maxim is explained that this maxim was founded upon justice and good sense; and afforded a safe and certain guide for the administration of the law. The above maxim should, however, be applied with caution. The other maxim is “LEX NON COGIT AD IMPOSSIBILIA” (Broom’s Legal Maxims-P. 162)- The law does not compel a man to do that which he cannot possibly perform. The law itself and the administration of it, said Sir W. Scott, with reference to an alleged infraction of the revenue

laws, must yield to that to which everything must bend, to necessity; the law, in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling impossibilities, and the administration of laws must adopt that general exception in the consideration of all particular cases.

7. In this case indisputably during the period from 26th of July, 1978 to 20th December, 1982 there was subsisting injunction preventing the arbitrators from taking any steps. Furthermore, as noted before the award was in the custody of the court, that is to say, 28th of January, 1978 till the return of the award to the arbitrators on 24th of 124 November, 1983, the arbitrators or the parties could not have presented the award for its registration during that time. The award as we have noted before was made on 28th of November, 1977 and before the expiry of the four months from 28th November, 1977, the award was filed in the court pursuant to the order of the court. It was argued that the order made by the court directing the arbitrators to keep the award in the custody of the court was wrong and without jurisdiction, but no arbitrator could be compelled to disobey the order of the court and if in compliance or obedience with court of doubtful jurisdiction, he could not take back the award from the custody of the court to take any further steps for its registration then it cannot be said that he has failed to get the award registered as the law required. The aforesaid two legal maxims-the law does not compel a man to do that which he cannot possibly perform and an act of the Court shall prejudice no man would, apply with full vigour in the facts of this case and if that is the position then the award as we have noted before was presented before the Sub-Registrar, Arambagh on 25th November, 1983 the very next one day of getting possession of the award from the court. The Sub-Registrar pursuant to the order of the High Court on 24th of June, 1985 found that the award was presented within time as the period during which the judicial proceedings were pending that is to say, from 28th of January, 1978 to 24th of November, 1983

should be excluded in view of the principle laid down in section 15 of the Limitation Act, 1963. The High Court, therefore, in our opinion, was wrong in holding that the only period which should be excluded was from 26th July, 1978 till 20th December, 1982. We are unable to accept this position. 26th July, 1978 was the date of the order of the learned Munsif directing maintenance of status quo and 20th of December, 1982 was the date when the interim injunction was vacated, but still the award was in the custody of the court and there is ample evidence as it would appear from the narration of events hereinbefore made that the arbitrators had tried to obtain the custody of the award which the court declined to give to them. ”

(emphasis supplied)

27. Mr. Shah has relied on the judgment of the co-ordinate Bench of this Court in ***Nestor Builders & Developers Pvt. Ltd. & Anr v. State of Maharashtra & Ors***⁴. We find that the above decision of the Supreme Court has been gainfully referred to and relied upon by this Court, in the backdrop of similar factual matrix, as in the present case, which would therefore be applicable in the given factual complexion.

28. In the facts of the present case, the delay in presenting the document for registration was purely attributable to Respondent No. 3, in passing a final adjudication order only on 3rd April 2025, under Section 31 of the Stamps Act. This delay on the part of the Respondent No. 3 cannot be held as detrimental to the Petitioners who, without any fault attributable to them, have been diligently pursuing the proceedings before the Respondent No. 3, as observed above.

4 2015 SCC OnLine Bom 3480

29. We find that it is undisputed that the Petitioner No. 1 is entitled to the benefit under the prevalent Amnesty Scheme of the State of Maharashtra. Accordingly, the Petitioner No 1 in fact, paid the stamp duty adjudicated at Rs.22,25,888/- which was duly endorsed by the Respondent No. 3 on 1st April 2025, after which the final order dated 3rd April 2025 came to be passed by the said Respondent. In such facts and circumstances the Respondent No. 4 ought to have excluded the period of limitation, until passing of the final order on 3rd April 2025 (supra) for the purposes of registering the said Indenture of Lease dated 14th July 2017. The period from 9th August 2017 up to 3rd April 2025, which was spent in the adjudication process until the final order was passed on 3rd April 2025, cannot be held against the Petitioner No 1, so as to deprive him of having the Indenture of Lease dated 14th July 2017, registered in the manner as the law would mandate. Such recourse of excluding the above period for the purposes of limitation would in our view, be in consonance not only with the provisions of the Registration Act enumerated (supra) but also in conformity with the decision of the Supreme Court in **Raj Kumar Dey & Ors.** (supra).

30. We find that the decision taken by the Respondents to not exclude the substantial delay caused at the behest of Respondent No. 3 - Collector of Stamps in adjudication of the said Indenture of Lease, leading to refusal of registration of the said document would entail serious consequences *qua* the Petitioner No. 1. This certainly can never be the intention of the legislature. Mere delay cannot defeat substantive justice. Accepting the case of the Respondents would tantamount to straying away therefrom, an approach we cannot countenance, in the given factual complexion.

31. Having examined the relevant provisions of the Registration Act and applying the above principles of law as laid down by the Supreme Court, we are of the considered opinion that the time taken by Respondent No. 3 - Collector of Stamps for adjudication is required to be excluded by the Respondents in accepting the said Indenture of Lease dated 14th July 2017, for registration. The said document ought to have been registered, in accordance with law.

32. For all the above reasons, the Writ Petition stands Allowed in terms of prayer clauses (A) to (C). Rule is made Absolute in the aforesaid terms.

33. All concerned, to act on an authenticated copy of this Judgment and Order.

JAYANT
VISHWANATH
SALUNKE

Digitally signed by
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Date: 2026.09.29
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[ADVAIT M. SETHNA, J.]

[CHIEF JUSTICE]