

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8327 of 2023**

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KAJI VARISMIYA CHANDMIYA THROUGH POA IMTIYAJKHAN
MOHAMMEDKHAN PATHAN

Versus

STATE OF GUJARAT

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Appearance:

MR. JAL UNWALLA, SR. ADVOCATE WITH MS. KRUPA P SONI(10048) for
the Petitioner(s) No. 1

for the Respondent(s) No. 2,3,4

MR. AAYAN PATEL, AGP for the Respondent(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVALI

Date : 05/06/2023

ORAL ORDER

1. Heard Mr. Jal Unwalla, learned Senior Counsel assisted by Ms. Krupa Soni, learned advocate appearing for the petitioner.

2. The petitioner herein is aggrieved by the order passed by the respondent No.2 dated 31.12.2022 passed in STAMP/ APPEAL/53(1)/ HIMMATNAGAR/37/2022, confirming the order passed by the respondent No.3 dated 11.7.2022, wherein the respondent authority has, by the impugned order, directed the petitioner herein to pay the deficit stamp duty of Rs. 2,69,970/- and penalty exercising power under Sections 39(1)(b) of the Gujarat Stamp Duty Act, 1958, to the tune of Rs. 26,99,700/-, which is 10 times the amount of duty payable.

3. Mr. Unwalla, learned Senior Counsel appearing for the petitioner, placed reliance on Sections 33 and 39 of the Gujarat Stamp Act, 1958. Placing reliance on the same, it was submitted that the penalty came to be imposed without impounding document in question and that the same is against the statutory provisions as also settled principles of law.

3.1 It was submitted that the document in question was never impounded by the respondent authority before passing the impugned order wherein the penalty is imposed 10 times to the amount of duty payable.

4. Mr. Aayan Patel, learned AGP appearing for the respondent authority submitted that the order impugned passed by the respondent authority are just and proper. It was submitted that the conduct of the petitioner is such that the authority has rightly imposed the penalty 10 times to the amount of duty payable.

5. Having heard the learned advocates appearing for the respective parties, Issue Notice, returnable on **11.7.2023**.

Mr. Aayan Patel, learned AGP waives service of notice on behalf of respondent No.1. Direct Service is permitted qua respondent Nos. 2 to 4.

6. In the meantime, the impugned order passed by the respondent No.2 dated 31.12.2022 passed in STAMP/ APPEAL/53(1)/ HIMMATNAGAR/37/2022, confirming the order passed by the respondent No.3 dated 11.7.2022, imposing the penalty of Rs. 26,99,700/- shall remain stayed till the next returnable date.

7. Mr. Unwalla, learned Senior Counsel, under instruction submits that the deficit stamp duty, as determined by the respondent authority, shall be deposited with the respondent authority within a period of two weeks from the receipt of this Order.

SAJ GEORGE

(VAIBHAVI D. NANAVATI,J)