

No. O. 5/Stamp - 23/ Q. No. 10/13/542/2023
Inspector General of Registration and Controller of Stamps
(Maharashtra State) Office, Ground Floor,
New Administrative Building,
Opposite Vidhan Bhavan, Pune - 1
dt. 26/07/2023

Circular:

Sub : Regarding Stamp Duty levied on contract documents for Permanent alternative accommodation for the benefit of members in Property Redevelopment Projects of Co-operative Housing Societies.

- Ref. :
1. Office of the Inspector General of Registration Circular No. O .15/Bamudat/Guidance Instructions/ 621 dt. 23/06/2015.
 2. Office of the Inspector General of Registration Circular No. O.5/Stamp-17/Q. No. 10/13/303/17 d. 30/03/2017.
 3. Order of Hon. High Court, Bombay in writ petition 4575/2022 and other petitions dt. 17/02/2023.
 4. Government letter no. Petition-2023/Q .No.138/M-1 (Policy), dt. 25/07/2023.

Introduction :-

Inspector General of Registration and Controller of Stamps, State of Maharashtra, Pune regarding assessment of property and stamp duty to be levied on such deed while allotment of flats/galas to members in new buildings in Redevelopment Projects of old buildings of Co-operative Housing Societies. The guidelines were issued vide circular No. Office 15/Bamudat/Guidelines/621 dt. 23/06/2015 and No. O.5/Stamp-17/Q. No. 10/13/303/2017 dt. 30/03/2017.

In the Hon. High Court, Mumbai, Adityaraj Builders filed writ petition no. 4575/2022 had challenged the directions in the above circular. In this writ petition, stamp duty is levied as per the provisions of the Maharashtra Stamp Act on the development agreement between both the co-operative housing society and the developer for the redevelopment of the property owned by the society. In accordance with the said development agreement, a Permanent

Alternate Accommodation Agreement has been entered into between the developer and the members of the cooperative society. The provisions of Section 4(1) of the Maharashtra Stamp Act are applicable and according to this, the direction has given High Court dated 17 February 2023.to levy stamp duty on such documents.

In the above background Pursuant to the order of the Hon. High Court, the following explanatory directions are being issued.

1. In a case where a duly stamped development agreement has been entered into between the two parties namely the co-operative housing society (land owner) and the developer for the redevelopment of the co-operative society's property (which includes society premises, buildings, apartments, flats, garages, godowns and galas), Even if the development agreement for that project is not signed by the individual members of the co-operative society, Agreement documents for permanent alternative accommodation between the developer and the members of the society should be subject to stamp duty as per the provisions of Section 4(1) of the Maharashtra Stamp Act.

2. When a co-operative housing society enters into a development agreement with a developer for the redevelopment of their property, the name of the members of the society, the number of the flat occupied by it, the carpet area of the flat, the carpet area to be given free of charge after the redevelopment, etc.

3. If a member of a co-operative housing society buys an increased area from the developer, stamp duty will be payable on the increased area as per the provisions of the Maharashtra Stamp Act.

4. In reference from this office dt. 23/06/2015 and dt. 30/03/2017 both these circulars are cancelled.

The said circular is being issued in accordance with the approval received vide reference no. 4 from the Revenue and Forest Department of the Government.

The said circular should be implemented immediately. A copy of the said circular is available on the website of the Registration and Stamp Department at www.igrmaharashtra.gov.in under the heading Circular.

Hiralal Sonawane (I.A.S.)
Inspector General of Registration and Controller of Stamps
State of Maharashtra, Pune