

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4960 OF 2015 IN
WRIT PETITION NO.6498 OF 2010

Idea Cellular Limited & anr. ... APPLICANTS

VERSUS

Municipal Corporation, Aurangabad
and others ... RESPONDENTS

.....
Shri J.R. Shah, Advocate for applicants
Shri A.M. Karad, advocate for respondents No.1 & 2
Mrs. Y.M. Kshirsagar, A.G.P. for State

.....

WITH

CIVIL APPLICATION NO.4963 OF 2015 IN
WRIT PETITION NO.6810 OF 2010

Idea Cellular Limited ... APPLICANT

VERSUS

Nanded-Waghala Municipal Corporation
and another ... RESPONDENTS

.....
Shri J.R. Shah, Advocate for applicants
Shri M.V. Deshpande, advocate for respondents No.1
Mrs. Y.M. Kshirsagar, A.G.P. for State

.....

WITH

CIVIL APPLICATION NO.4978 OF 2015 IN
WRIT PETITION NO.1103 OF 2009 WITH
CIVIL APPLICATION NO.9665 OF 2010

Idea Cellular Limited ... APPLICANT

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Shri J.R. Shah, Advocate for applicants
Mrs. Y.M. Kshirsagar, A.G.P. for State
Shri M.V. Deshpande, Advocate for respondent No.2

.....

WITH

CIVIL APPLICATION NO.4989 OF 2015 IN
WRIT PETITION NO.7057 OF 2010

Idea Cellular Limited ... APPLICANT

VERSUS

The Municipal Corporation of City
of Jalgaon & another ... RESPONDENTS

.....
Shri J.R. Shah, Advocate for applicants
Shri N.B. Suryawanshi, Advocate for respondent No.1
Mrs. Y.M. Kshirsagar, A.G.P. for State

.....

WITH

CIVIL APPLICATION NO.5004 OF 2015 IN
WRIT PETITION NO.6287 OF 2010 WITH
CIVIL APPLICATION NO.12825 OF 2010

Tower Vision india Private Limited ... APPLICANT

VERSUS

The State of Maharashtra & another ... RESPONDENTS

.....
Shri J.R. Shah, Advocate for applicants
Mrs. Y.M. Kshirsagar, A.G.P. for State
Shri N.B. Suryawanshi, Advocate for respondent No.2

.....

CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 5th May, 2015.

ORAL ORDER :

1. The Writ Petitions have already been disposed of. The applications are made by the applicants/petitioners for withdrawal of amount deposited by them pursuant to the orders passed by this Court during the pendency of the Writ Petitions while issuing notices to the respondents.

2. Mr. Shah, learned counsel for the applicants submits that the Writ Petitions are disposed of by the orders of this Court, dated 24/9/2013 with certain directions.

3. Mr. Deshpande, Mr. Karad and Mr. Suryawanshi, learned counsel for respective Municipal Corporations submit that the petitioners were given liberty to renew their grievance after the impugned rules are sought to be used against the petitioners. The said amounts can be adjusted in the subsequent property taxes. The learned counsel for respondents submit that the issue is pending before the Apex Court as to whether the property tax can be levied over the towers. Be that as it may. The Writ

Petitions have been already disposed of with following directions :

9. We have perused the judgment dated 21st December 2012, delivered in Writ Petition No. 825 of 2009 and other connected petitions. In paragraph 38(3) of the said judgment, the Court has asked respective Municipal Corporations / Municipal Councils to refund the amount after deducting the amount as permissible in accordance with draft proposal [policy] dated 26th July 2011, as expeditiously as possible, and preferably within six months from the date on which that judgment was pronounced. That period of six months has already expired. These directions to refund the amount were issued in those Writ Petitions and the amounts have been deposited in Writ Petitions today before us.

10. In the light of directions contained in judgment dated 21st December 2012, we find that interest of justice can be met with by directing the petitioners to submit appropriate representations seeking refund, giving necessary details, within a period of two weeks from today. If such representations are received by the respective Municipal Commissioners of the respondents / Municipal Corporations, they shall take necessary decision upon it, within further period of four weeks. The amount found refundable shall be returned to the respective claimants within further period of four weeks.

11. Acceptance of that refund shall not preclude the petitioners from challenging correctness of the exercise undertaken. If the amount is deposited with the Registry of this Court, the amount found refundable can be withdrawn from the office of this Court by the respective claimants.

12. With the above directions, and with liberty to the petitioners, to renew their grievance if the impugned Rules are sought to be used against them in future, we dispose of present Writ Petitions. Rule in Writ Petition No. 536 of 2006 is discharged. No costs.

13. In view of disposal of the Writ Petitions, Civil Applications do not survive and the same are disposed of.

4. In light of the above, there would be no impediment to allow the applicants/ petitioners to withdraw the amount as the Writ Petitions are already disposed of. Needless to state, if some rights are created in favour of parties, the parties can enforce the same.

5. It is also submitted that there is no issue of property tax involved in the present matter.

6. Civil Applications are accordingly allowed.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)