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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.829 OF 2015**

Sarpanch, Group Gram Panchayat Sai	... Petitioner
Vs.	
State of Maharashtra and Ors.	... Respondents

Mr. C.G. Gavnekar, for the Petitioner.
Mrs. M.P. Thakur, AGP, for the Respondent Nos.1 to 5.
Mr. Satyan N. Vaishnawa a/w Ms. Nupur J. Mukherjee a/w Mr. Sandip Parikh i/by M/s. N.N. Vaishnawa & Co., for Respondent No.6.

**CORAM : A.S. OKA &
A.K. MENON, JJ.**

DATE : 24th FEBRUARY, 2015

PC.

. The prayer made in this Writ Petition under Article 226 of the Constitution of India is very limited. The case made out is that the Petitioner wants to levy attachment on the property of the Respondent No.6 - Company for the purposes of recovery of property taxes. The grievance in the Petition is that the State Government is not granting police protection to the office bearers/ staff of the Petitioner to levy the attachment. The learned AGP states that usual procedure is that if a party wants police protection, the charges payable for the police protection as per the policy of the State Government are required to be deposited in advance.

2. The police protection has been denied to the Petitioner by the Deputy Commissioner of Police, Navi Mumbai by observing that there is no provision in the Mumbai Village Panchayat Act, 1958 (for short “the said Act of 1958”) for grant of police protection. It is also observed that the Petitioner has not followed the requirements of Sub-Section (7) of Section 129 of the said Act of 1958 for the purposes of levying attachment. The police are not concerned with the legality of the attachment proposed to be levied by the Petitioner. Obviously, there cannot be any provision under any Municipal law for grant of police protection for the purposes of exercise of statutory powers by a local Authority. Therefore, the ground on which the police protection is denied cannot be sustained at all.

3. The learned counsel appearing for the sixth Respondent states that the sixth Respondent has kept the statutory appeal ready which was not accepted by the Panchayat Samitee which is first the Appellate Authority. He submits that sixth Respondent will have to take out appropriate proceeding as the appeal is not being accepted by the first Respondent Authority. He submits that the proposed action of levying attachment on the property of the sixth Respondent is completely illegal.

4. If according to the sixth Respondent, the Petitioner is not entitled to attach the property of the sixth Respondent, it is for the Petitioner to adopt appropriate proceedings in accordance with law. If the appeal and application preferred by the sixth Respondent is not being decided by the Appellate Authority, it is for the sixth Respondent to adopt appropriate proceedings in accordance with law. To enable the sixth Respondent to adopt appropriate proceedings, we propose to direct the Petitioner not to take action of levying attachment for a period of two weeks from today. We make it clear that the issue whether the Petitioner is entitled to levy attachment is kept open which will have to be decided in appropriate proceedings.

5. Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) We direct the second to fourth Respondents to provide adequate protection to office bearers of the village panchayat as well as its staff members for the purposes of levying attachment on the property of the sixth Respondent. It is obvious that before grant of police protection, the Petitioner will have to deposit the requisite amount with the Police Authorities;

- (ii) We make it clear that the Petitioner will not be entitled to police protection for the purposes of levy of attachment for a period of two weeks from today to enable the sixth Respondent to take appropriate steps;
- (iii) The Protection shall be granted to the Petitioner as aforesaid on expiry of two weeks from today;
- (iv) We make it clear that we have made no adjudication on the issue of legality and validity of the proposed action of the Petitioner of levying attachment;
- (v) We also make it clear that this protection will be subject to orders which may be passed in the proceedings which may be filed by the sixth Respondent;
- (vi) Petition is disposed of on above terms;
- (vii) All concerned to act upon an authenticated copy of this order.

(A.K. MENON, J)

(A.S.OKA, J)