

Anand

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

WRIT PETITION NO.991 OF 2012

Pesi K. Sidhwa .Petitioner

v/s.

The State of Maharashtra & ors .Respondents

Mr.Parag Kale, Advocate, for the Petitioner

Mr.U.S.Upadhyay, AGP, for the Respondent Nos.
1 & 2

Mr.M.D.Naik, Advocate, for the Respondent No.4

CORAM : A.A.SAYED, J.

DATE : 18.06.2015

P.C.

. The order impugned in this petition filed under Article 226 of the Constitution of India, is the order dated 14.09.2010 passed by the State Government granting approval to the proposal of exemption of repair cess under the provisions of Section 83(1)(I) & (L) of the Maharashtra Housing And Area Development Act, 1976 (hereinafter referred to as "MHADA") in respect of the property belonging to the

petitioner.

2. The grievance of the petitioner is that though the application for exemption from payment of repair cess has been made by the petitioner to the Housing Department of the Government of Maharashtra on 18.04.2007, the exemption has been granted by the impugned order from the date on which all outstanding repair cess is recovered from the petitioner. Thus, the controversy in the petition is essentially whether the exemption is to be granted from the date of the application or the date when the impugned order was passed and the outstanding repair cess was paid by the petitioner.

3. At the hearing of the petition, Mr.Naik, learned counsel for MHADA has fairly stated that the issue raised in the petition is squarely covered by the judgment of this Court

in ***Pearl Mansion Co-operative Housing Society Limited vs. Municipal Corporation of Greater Mumbai And Others***, reported in ***1994 Mh.L.J.*** passed by a Single Judge of this Court wherein it has been held that the exemption from the repair cess has to be granted from the date of the application for exemption. Though in the petition the petitioner has claimed exemption even prior to 18.04.2007, the learned counsel for the petitioner on taking instructions from the petitioner, who is present in Court, fairly states that the petitioner is agreeable to the exemption being granted from the date of the application.

4. In the circumstances, the following order is passed:

(i) The impugned order dated 14.09.2010 is modified to the extent that the exemption under Section 83(1)(I) & (L) of the MHADA would be

taken as granted from the date of the application i.e. 18.04.2007.

(ii) The statement of the learned counsel for the petitioner upon instructions is recorded that the arrears of repair cess upto 18.04.2007 would be paid by the petitioner within three weeks from today.

5. The Petition is disposed of in the aforesaid terms.

(A.A.SAYED, J.)