Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2835 OF 2013

Smt. Jayshri Jagdish Engineer ...Petitioner
Versus
The Municipal Commissioner & Anr. ...Respondents

Mr. Jayesh Bhatt, for the Petitioner.
Mrs. Shobha Ajitkumar, for Respondent Nos. 1 and 2-BMC.

CORAM: A. S. OKA & G.S. PATEL, JJ.
DATED: 23rd November 2015

PC:-

1. By this Writ Petition under Article 226 of the Constitution of India, the challenge is to the notices issued which are at Exhibits "A" to "J" of the Petition. The impugned notices are special notices under Section 162(2) of the Mumbai Municipal Corporation Act, 1888 (for short the "the said Act"). The case made out in the Petition is that on the basis of the said notices, complaints were filed by the Petitioner and his brothers in prescribed form.

2. By a letter, a copy of which is at Exhibit "M" at page 28, the Assistant Assessor and Collector/G-North informed the Advocate for the Petitioner that though a complaint has been received against Capital Value, he has not mentioned the grounds on which the Capital Value is complained against in respect of Carpet Area and of any other "Factor Values". It is further stated that the evidence in support of the complaint has not been adduced.

3. Thus, even the Respondent-Municipal Corporation admitted that the complaints as contemplated by Sub-section 2 of Section 162 of the said Act were filed by the Petitioner and others. Therefore, the complaints ought to have been heard in accordance with Section 164 read with Section 165 of the said Act. The learned counsel appearing for the Municipal Corporation has no instructions in this regard.

4. Unless the complaints are decided in the manner laid down in Sections 164 and 165 of the said Act, the authentication of the Ward Assessment Book cannot be made on the basis of special assessment notices.

5. We dispose of the Petition by passing the following order:

(a) We direct the Petitioner to remain present before the Assistant Assessor and Collector, G/North Ward of the Mumbai Municipal Corporation on 21st December 2015 at 11.00 a.m;

(b) The Assistant Assessor and Collector shall also serve notices to the other persons who have filed objections to the said special assessment notices;

(c) The complaints filed by the Petitioner shall be investigated and heard in accordance with Section 165 of the said Act;

(d) The complaints shall be decided within a period of three months from the date fixed for appearance of the Petitioner;

(e) We make it clear that the amendment to the entries in Ward Assessment Book shall be made only after the complaints are disposed of. It is clarified that the demand on the basis of amendment to the Assessment Book can be raised only after following the procedure laid down by Sections 164 and 165 of the said Act;

(f) All contentions on merits of the proposed assessment are kept open.

(g) The Writ Petition is disposed of on above terms.

(G. S. PATEL, J.) **(A. S. OKA, J.)**