HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.7231 of 2015

DATED: 10.06.2015

Between:

M/s.GTL Infrastructure Ltd.

… Petitioner

and

The Greater Hyderabad Municipal Corporation

… Respondent

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.7231 of 2015

PC: (per the Hon'ble The Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

In the instant Writ Petition, the petitioner seeks the following relief:

> "For the reasons stated in the accompanying affidavit the petitioner prays that this Hon'ble Court may be pleased to issue an appropriate Writ, order or direction, especially one in the nature of a Writ of Mandamus declaring the action of the respondent in straightaway taking coercive action by disconnecting power supply and sealing the towers of the petitioners for non-payment of property tax, without issuing any notice whatsoever to the petitioner company and without considering that the respondent corporation has no power to impose any property tax in respect of the towers and the proceedings bearing No.625/CT3/CTS/GHMC/2015, dated 07.03.2015, as arbitrary, illegal, without jurisdiction, contrary to the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and rules made thereunder and in utter violation of well settled principles of natural justice and to pass such other order or orders as are deemed fit and proper in the circumstances of the case."

This Court on 20.03.2015, after hearing learned counsel for the parties and while allowing the Municipal Corporation to file counter-affidavit, passed the following order:

> "The petitioner is owner of a cell tower, which has been installed on rooftop of a building owned by a third party. Without issuing any notice initially to the writ petitioner for demanding property tax in relation to the tower only, action was taken and this action was intervened by this Court, on a writ petition having been filed, and passed an order asking the Municipal Corporation to give hearing to the petitioner as well as the owner of the building. After giving such hearing, a decision has been taken by passing a speaking order. It is decided that tower itself is exigible to property tax. However, no tax amount has been quantified as yet. Therefore, question of recovery does not and cannot arise. Before this stage reaches, the Municipal Corporation has taken coercive measure by disconnecting the electricity supply line in purported exercise of power under Section 269(2) of the Greater Hyderabad Municipal Corporation Act, 1955, which is set out hereunder:
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> "**269.(2)** If after the service of the notice of demand the amount of the

said tax is paid but the fee for the notice is not paid, the sum due on account of the said fee may be levied under a warrant in the form of Schedule L, *mutatis mutandis* as if such sum were due on account of the tax:

Provided that a simple interest at the rate of two per cent per mensum shall be charged in case of failure to pay property tax within the due date:

Provided further that when payment of property tax is not made within the due date, the Commissioner may, after giving notice to the owner or occupier, disconnect the essential services to the premises.

We have decided a similar matter earlier observing that essential services which have been provided by the Corporation itself can be disconnected if tax amount is not paid, but not the services provided by third parties. In this case, admittedly the Municipal Corporation has not supplied electricity to the petitioner and it is for the electricity company to take measure to disconnect electricity supply, and no third party can interfere and enter into electrical equipments installed in premises in question. We fail to understand how without permission of the licensee or the electricity company municipal authority can take such action. Therefore, it would be open for the writ petitioner as well as the electricity company concerned to take action, both under civil law and criminal law, against officials of the Municipal Corporation. We are told that electricity connection has been restored again by the Municipal Corporation, again interfering with the instalment not having any authority under the law. We therefore restrain the Municipal Corporation from making any attempt to disconnect electricity supply to the writ petitioner. However, it would be open for the concerned electricity company to do so in accordance with law, not at the instance of a third party. In the meanwhile, it would be open for the Municipal Corporation to quantify the tax payable by the writ petitioner. In spite of quantification and demand being made, if the tax amount is not paid, obviously recovery proceedings may be initiated in accordance with law."

After having read the above order (dated 20.03.2015), when we expressed that the Writ Petition can be disposed of in terms of the said order, learned counsel for the parties agreed for the same, since the said order keeps all the options open to the concerned electricity company and so also the Municipal Corporation. If, either electricity company or the Municipal Corporation, take any further step against the petitioner either disconnecting the electricity supply or demand any tax, it is always open to the petitioner to take appropriate remedy against the same. If any such proceedings are taken, we are sure the same will be considered on merits in accordance with law.

With this observation, we dispose of this Writ Petition in terms of the interim order, dated 20.03.2015.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

10th JUNE, 2015.

S.V. BHATT, J

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