

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.3539 OF 2015

**Senior Superintendent of Post Offices, Aurangabad Division,
Aurangabad Vs. The Municipal Council, through its Chief
Officer and another.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Deshpande, Asstt. Solicitor General for petitioner.

Mr.B.V.Virdhe, A.G.P. for the State.

Mr.S.D.Hiwrekar, advocate for Respondent No.1.

**CORAM : S.V.GANGAPURWALA AND
K.K.SONAWANE, JJ.**

Date : 14.07.2016.

PER COURT :

1. Heard.
2. This unfortunate Writ Petition depicts the sorry state of affairs between the local self-Government and the Union on the other. It is litigation between the two arms of the Governments. The Apex Court time and again has deprecated the two arms of the Government resorting to the litigation against each other.
3. The dispute is with regard to the rent to be charged by the Respondent for the property occupied by the petitioner. The property is occupied by the petitioner for running the Post Office.

The property is owned by Respondent No.1 Municipal Council. The said property is in possession of the petitioner since long time, even prior to constitution of Municipal Council. After the constitution of the Respondent – Municipal Council, the location of the said premises has changed but it is not disputed that the Respondent is a owner/landlord and the petitioner is the tenant over the said premises. It is stated that up to September 2009, rent at the rate of Rs.75/- p.m was paid by the petitioner to the Respondent. The grievance of the petitioner is that vide impugned communication, the petitioner is charging enormous rent i.e. Rs.97,200/- (Rupees ninety seven thousand two hundred) p.a. and in addition to the said rent is also fastening property tax of Rs.22,356/- (Rupees twenty two thousand three hundred fifty six) upon the petitioner. According to Mr.Deshpande, learned ASG, the same is illegal. The property tax is not to be paid by the tenant. The learned ASG submits that there is a policy of calculating the rent and paying it if the Union or its Offices like the petitioner are the tenants. The said policy is required to be adhered to.

4. Mr.Hiwrekar, learned counsel for Respondent states that since 2009, the petitioner has not paid the rent, even at the rate of Rs.75/- p.m. The same is controverted by the petitioner on the ground that the Municipal Council is not accepting the same. Mr.Hiwrekar, learned counsel further submits that for getting the

valuation done through competent authority, the petitioner was requested from time to time to sign on the data sheet but the petitioner did not cooperate. Many request letters were issued in that regard. The said property is not exempted from levy of property tax. On non-payment of the rent and the property tax, the Respondent has a right to seal the building U/s 152 of the Maharashtra Municipal Councils Act. The learned counsel further submits that the petitioner was asked to pay the rent as per new valuation.

5. We have considered the submissions. As observed above, the petitioner and Respondents ought to have settled the matter amicably between themselves and ought to have avoided litigation. It does not befit the instrumentalities of the State to litigate amongst themselves. The rent amount can be settled between the parties considering the relevant provisions of the Statute and the Rules existing.

6. Considering the above, the impugned communication is quashed and set aside. The petitioner shall pay rent amount due since October 2009 till date at the rate at which it was paying earlier. The Respondent shall accept the same without prejudice to its rights and contentions of a higher rent to be received by it.

7. The petitioner may approach the Office of Municipal Council and the parties shall amicably arrive at the rent to be paid

by the petitioner to the Respondent, keeping in mind the Statute and the Rules operating in this field. The said exercise of determining the rent shall be done expeditiously, amicably between them preferably within four (4) months.

8. The Writ Petition is accordingly disposed of. No costs.

(K . K . SONAWANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.14.07.2016.
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