IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4994 OF 2015

M/s. M. B. Rathor and Co.
Dealers Bharat petroleum Corporation
Ltd., Degloor, Through Managing Partner,
Jawahar Satyapal Rathor .. **Petitioner**
Versus
The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai and others .. **Respondents**

Shri Upendra B. Bilolikar, Advocate for Petitioner.
Shri B. V. Virdhe, A. G. P. for Respondent Nos. 1 and 2.
Shri V. P. Latange, Advocate for Respondent No. 3.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 15TH JULY, 2016.

PER COURT :-

1. Mr.Bilolikar, the learned counsel submits that, vide the impugned action the property of the Petitioner was sealed. The order was only to the extent of attachment. U/Sec. 155(D) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 attachment of immovable property would mean order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charging. However, the Respondent came on the premises and sealed the premises the same is erroneous. The learned counsel submits that, pursuant to directions of this court the Petitioner has already deposited an amount of Rs. 2,50,000/- and subsequently an amount of Rs.1,10,000/- Respondents have opened the seal.

2. Mr. Latange, the learned counsel for the Respondent No. 3 submits that, proper procedure has been followed while attaching the property. The Petitioner is a defaulter in payment of the property tax. In spite of demand notice property tax is not paid, as such, the action is rightly taken.

3. We have considered the submissions.

4. The demand bill was to the tune of Rs.5,51,848/-. After the orders are passed by this court Petitioner has paid an amount of Rs. 3,60,000/-. It is also submitted that, Respondent has opened the seal.

5. In light of that, the impugned action of putting seal over the control cabin of the Petitioner's petrol pump is set aside.

6. If, the Petitioner seeks to dispute the assessment of the property tax the Petitioner has a remedy under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

7. The Petitioner may file the said proceedings, however, the order of attachment to the extent that the Petitioner shall not create any third party interest or charge the property shall remain till the appeal is decided.

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

[K. K. SONAWANE, J.] **[S. V. GANGAPURWALA, J.]**

sam/July.16