

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1182 OF 2016

WITH

CIVIL APPLICATION NO.425 OF 2016

Snehal Shah.] ... Petitioner
Versus
Municipal Corporation of Greater Bombay.] ... Respondents

WITH

WRIT PETITION NO.1154 OF 2016

WITH

CIVIL APPLICATION NO.436 OF 2016

Alka Rasiklal Shah.] ... Petitioner
Versus
Municipal Corporation of Greater Bombay.] ... Respondents

WITH

WRIT PETITION NO.1172 OF 2016

WITH

CIVIL APPLICATION NO.437 OF 2016

Sandeep Shah.] ... Petitioner
Versus
Municipal Corporation of Greater Bombay.] ... Respondents

Mr. Vishal Kanade a/w Mr. Bharat Joshi for Petitioners.
Mr. Vinod Mahadik for Respondents.

CORAM :- M. S. SONAK, J.

DATE :- FEBRUARY 18, 2016

P. C. :-

1. Mr. Vinod Mahadik, learned Counsel for Municipal Corporation of Greater Mumbai ('MCGM'), on basis of instructions, states that that following amounts are due for the period indicated in the chart :-

Period	Bill Amount	Paid Amount	Balance Amount
01/04/2008 to 30/09/2008	12366587	9498052	2868535
01/10/2008 to 31/03/2009	11716692	8848157	2868535
01/04/2009 to 30/09/2009	14154998	11286463	2868535
01/10/2009 to 31/03/2010	11520582	6991495	4529087
TOTAL	49758859	36624167	13134692

2. This Court, by order dated 27/01/2016, had directed the petitioners in each of these petitions to deposit before the Small Causes Court, Mumbai, a sum of Rs.1 Crore without prejudice to their rights and contentions in these petitions as a pre-condition for the Small Causes Court to entertain the appeals instituted by these petitioners.

3. Now, that it transpires that the total dues for the disputed period, even according to the MCGM being in the range of Rs.1,31,34,692/-, it will not be appropriate to direct each of the petitioners to deposit Rs.1 Crore before the Small Causes Court.

4. Instead, the petitioners are at liberty to pay to the MCGM an amount of Rs.43,78,231/- each within a period of six weeks from today without seeking any further extension. In case, this amount is indeed paid to the MCGM within a period of six weeks from today, the Small Causes Court to proceed to decide the petitioners' appeals on their merits and in accordance with law. Therefore, it is made clear that the payment of Rs.43,78,231/- by each of the petitioners to the MCGM within a period of six weeks from today shall be construed as compliance with the provisions of Section 217(i)(d) of the Mumbai Municipal Corporation Act, 1888. Needless to add that in case the petitioners fail to pay this amount to the MCGM within six weeks from today, the Small Causes Court shall be at liberty to dismiss the appeals instituted by the petitioners as not maintainable for non-compliance with the aforesaid provisions.

5. Further, it is made clear that the payment by the petitioners shall be without prejudice to their rights and contentions in the appeals. The petitioners shall also be entitled to contend that the society, having already paid the entire amount to the MCGM, the petitioners are entitled to refund of the amount already paid. The petitioner, however, can contend all this only after they have paid this amount to the MCGM within a period of six weeks from today.

6. All contentions of all parties in this regard are kept open to be decided by the Small Causes Court, in case, the petitioners comply with the directions in the matter of payment.

7. These petitions are accordingly disposed of in the aforesaid terms.

8. In view of the aforesaid, Civil Applications do not survive and the same are also disposed of.

9. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)