

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5938 OF 2015

La' BuilDe Corporation

...Petitioner

Versus

Pune Cantonment Board & Ors.

...Respondents

Mr. Jalan Sandeep, for the Petitioner.

Mr. K.J. Presswalla, a/w Mr. Sandeep Goyal, i/b M/s. Mulla & Mulla
& CBC, for Respondents No. 1 & 2.

Mr. Atul G. Damle, Senior Advocate, a/w Mr. P.S. Gujar, for
Respondent No. 3.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 27th September 2016

P.C. :

1 . Heard the learned Counsel appearing for the Petitioner.

The challenge in this Petition under Article 226 of the Constitution of India is to the bills issued by the Pune Cantonment Board which are at Exh.E and Exh.H to the Petition demanding property taxes for the years 2013-14 and 2014-15. Under Sub-section 1 of Section 93 of the

Cantonment Act, 2006 an Appeal is provided to the District Court against the assessment or levy of, against the refusal to refund any tax under the Cantonment Act, 2006.

2. The contention raised in the Petition in short is that the bills are completely illegal inasmuch as mandatory procedure which is required to be followed before issuing the bills has not been followed and therefore, in view of the complete illegality, the Writ Court should exercise its jurisdiction under Article 226 of the Constitution of India.

3. In view of Section 96, Appeal under Section 93 can be entertained only on the deposit of the disputed amount. Therefore, on the last date, we had granted time to the Petitioner to make a statement, whether the Petitioner was willing to deposit with the Cantonment Board the entire amount demanded without prejudice to its rights and contentions in this Petition. Today, on instructions, the learned Counsel appearing for the Petitioner states that the Petitioner is not in a position to deposit any amount.

4. Considering the scope of appeal under Section 93 of the Cantonments Act, 2006, the contentions raised in this Petition can be always gone into by the District Court which is the Appellate

Authority.

5. In view of availability of an efficacious remedy under Section 93 of the Cantonment Act, 2006, we decline to entertain this Petition and the same is accordingly, disposed of. However, this order will not prevent the Petitioner from adopting the statutory remedy.

6. All contentions on merits are kept open.

[A.A. SAYED, J.]

[A.S. OKA, J.]