

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8662 OF 2015

M/s. Johnson Dye Works Ltd. : Petitioner.
Versus
The Unknown and Unnamed Heirs and Legal
Representatives of Ratanchand Navalchand Jhaveri &
Tarachand Navalchand Jhaveri & ors. : Respondents.

ALONG WITH
CIVIL APPLICATION NO.17 OF 2016
IN
WRIT PETITION NO.8662 OF 2015

M/s. Johnson Dye Works Ltd. : Applicant.

In the matter of

M/s. Johnson Dye Works Ltd. : Petitioner.
Versus
The Unknown and Unnamed Heirs and Legal
Representatives of Ratanchand Navalchand Jhaveri &
Tarachand Navalchand Jhaveri & ors. : Respondents.

Mr. P S Dani, Senior Advocate a/w Mr. Shailesh Thakkar i/by Mr. Sean Wassoodew for the Petitioner.
Mr. J Reis, Senior Advocate a/w Mr. Rajesh Kakhare i/by Mr. Javed A Khan for the Respondent Nos. 2 to 14.

CORAM : R. M. SAVANT, J.
DATE : 03rd February 2016

P.C.

1 The challenge in the above Petition is to the order dated 15/07/2015 passed by the learned Judge of the Small Causes Court, Mumbai to the extent it disallows the prayer of the Petitioner for deposit of the property

tax amounting to Rs.9,34,450/- by the Respondent Nos.2 to 14 herein. The Petitioner vide Civil Application No.17 of 2016 has sought to amend the above Petition so as to raise grounds relating to the observations made by the Appellate Bench of the Small Causes Court, Mumbai in respect of the said property tax in the order passed by it.

2 The learned Senior Counsel Shri J Reis on instructions of the Respondent Nos.2 to 14 is agreeable to the matter being remanded back to the Appellate Bench of the Small Causes Court, Mumbai for a de-novo consideration of the said aspect in view of the fact that the issue as regards recovery of the water charges has been remanded back to the Appellate Bench of the Small Causes Court, Mumbai by virtue of the order passed today in the companion Writ Petition No.11530 of 2015.

3 In view of the said statement, the need to give detailed reasons for setting aside the impugned order, in so far as the property tax is concerned, is obviated.

4 The learned Senior Counsel appearing on behalf of the Petitioner Shri P S Dani has no objection to the said course of action being followed. Hence the following directions :-

- A] The matter is remanded back to the Appellate Bench of the Small Causes Court, Mumbai for a de-novo consideration of the issue regarding the payment of the property tax.
- B] The contentions of the parties in respect of the said issue are kept open for being urged before the Appellate Bench of the Small Causes Court, Mumbai.
- C] Since reliance was sought to be placed on various orders, decrees passed by this Court as well as City Civil Court, Mumbai in various proceedings, the Appellate Bench of the Small Causes Court, Mumbai would permit the parties to produce the said material on any other additional material they wish to rely in the said Revision Application and would decide the said Revision Application having due regard to the said material.
- D] On remand the parties to appear before the Appellate Bench of the Small Causes Court, Mumbai on 10/02/2016, and the Appellate Bench of the Small Causes Court, Mumbai to thereafter decide the said issue along with the Revision Application No.237 of 2015 latest by 31/03/2016. It is expected of the parties that they would not apply for unnecessary adjournments as the issue involved is in

respect of liability to pay property tax/water charges to the Municipal Corporation of Greater Mumbai.

- E] Till the decision is rendered on the said issue in the said Revision Application No.237 of 2015, no further steps to be taken pursuant to the order passed by the Trial Court.
- F] The above Writ Petition is accordingly disposed of.
- G] The Civil Application No.17 of 2016 filed by the Petitioner is allowed. Amendment to be carried out within one week from date.
- H] All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

[R.M.SAVANT, J]