IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10736 OF 2015

Ratna F. Jaiswal .. Petitioner.
v/s.
The Municipal Commissioner of Navi Mumbai
& Others .. Respondents.

Ms. Zulekha Sayyed i/b. Chandrakant S. Gongane, for the Petitioner.
Mr. S. V. Marne with Mr. R. Patil, for the Respondents.

CORAM: M.S.SANKLECHA, &
B.P.COLABAWALLA, JJ.
DATE : 12th FBRUARY, 2016.

P.C:-

This Petition under Article 226 of the Constitution of India, challenges the notice dated 30th July, 2015 issued under Section 128 of the Maharashta Municipal Corporation Act (the Act). The impugned notice seeks to recover the amount of Rs.65,575/- being the arrears of property taxes in respect of Flat No.B-104 (said flat) in Plot No.E-6 to E-12, Sector No.20, Belapur, Navi Mumbai.

2 The Petitioner has contended that in May, 2015, she received an assessment bill in respect of the said flat, seeking to recover property taxes for the period from 1st April, 2015 to 30th September, 2015, amounting to Rs.2426/- along with arrears for an earlier period of Rs.61,065/- aggregating to Rs.63,049/-. However, the bill was issued in the name of lessee namely one – Dinkar S. Patil and others, though the said flat was also indicated in the said bill. The non-payment of the

property taxes led to the issue of the impugned notice dated 30th July, 2015. In response, the Petitioner by her letter dated 7th August, 2015 sought clarification in respect of the bill issued to her in the name of the lessee one Mr. Dinkar S. Patil. However, the Petitioner states that there was no response to her letter dated 7th August, 2015. Further, Petitioner has annexed at Ex.'G', the outstanding of property taxes payable in respect of the said flat from 1st April, 2008 to 1st April, 2015, aggregating to Rs.66,305/- as down loaded from the site. In the above view, the Petitioner seeks an order, quashing the impugned notice dated 30th July, 2015.

3 Mr. Marne, learned Counsel appearing for the Respondents point out that the Petitioner had not furnished any documents, indicating her ownership of the said flat. In the above view, in the records of Corporation, the lessee of the plot who was considered to be the owner of the said flat in the building constructed thereon. Nevertheless, the bills show the said flat in respect of which the property bills have been issued. The property bill payable in respect of the said flat is Rs.2426/- for a period of six months i.e. Rs. 404.33 per month. However, the Petitioner has not paid a single paise to the Corporation from 2008 to 2015 in respect of the said flat.

4 In the above view, learned Counsel submits that the Petitioner can approach the Corporation for substituting her name of the owner of the said flat in the records of the Corporation with evidence of her ownership. This would ensure that property bills in the future be issued in her name.

5 Before us, the Petitioner states that she is not liable to pay any property tax prior to 2010. These are all disputed issues. These have to be raised with the Corporation. However, the fact is that Petitioner has not paid a single paise in respect of the property tax from 2008 onwards. Even today, the Petitioner states that she is in possession and ownership of the said flat since 2010. The Petitioner is dodging her obligation to pay property taxes to the Corporation by raising frivolous issues like incorrect name etc. In terms of Section 140 of the Act, the occupant is liable to pay property taxes. It would be open to the Petitioner to approach the Corporation to determine her obligation under the Act. This requires factual examination.

6 In the above view, considering the conduct of the Petitioner and the factual nature of the dispute, we are not inclined to entertain this Petition.

7 Accordingly, **Petition dismissed.** No order as to costs.

(B.P.COLABAWALLA,J.) **(M.S.SANKLECHA,J.)**