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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2464 OF 2016**

M/s. Jaywant Development Corporation & Anr. ..Petitioners

Versus

Municipal Corporation of Greater Mumbai
& 5 Ors. ..Respondents

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Mr. Abhinav Chandrachud i/b. Mohanish Chaudhari for the petitioners.
Ms. Geeta Joglekar for the Respondent-BMC.

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**CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.**

DATE : 22ND DECEMBER, 2016

PC.

1. None appears for respondent no.6. The learned counsel for petitioners state that they have been attempted to serve them but they refused to accept service and he undertake to file an affidavit of the same within a period of one week from today.

2. This petition under Article 226 of the Constitution of India challenges the warrant of attachment dated 22nd June, 2015 in respect of D Wing, Dadarkar Tower (said building) and also a notice dated 6th October, 2015 and 14th January, 2016. The impugned warrant of attachment as also the impugned notices issued by the Municipal Corporation of Mumbai (respondent no.1) seeks to recover the property

taxes from the petitioners for the period 1st April, 2005 to 31st March, 2015 in respect of the said building.

3. It is the contention of the petitioners that it is a developer/builder who inter alia built the said building on the land owned by Mr. Jaywantrao and Mr. Vasantrao Dadarkar. The respondent no.1 Corporation granted Occupation Certificate in respect of the said building on 11th April, 2005. Occupation was given to the present residents in 2005-06 itself by the petitioners and thereafter they have had nothing to do with the said building. It is the petitioners contention that they have discharged all their obligations with regard to property taxes which were payable till the grant of Occupation Certificate and before the handing over of occupation of the individual flats in the said building to the present occupants or their predecessor. The petitioners further state that the respondent no.1 Corporation has been issuing bills in respect of the property tax to individual occupants of the said building since 2009 and have annexed some copies of the same to its affidavit in rejoinder. The petitioner states that it has no interest in the said building and the execution of the warrant of attachment will not affect it financially. However, it is keen to ensure its fair name is not tarnished by the attachment notices in its name.

4. As against the above, it is the contention of the respondent no.1 that in its records, the name of the petitioner is shown as owner as per their office records.

5. The entire dispute would really require examination of facts as to when the occupation of the individual flats was given in respect of the said building and also require taking into account the individual bills which have been sent by the Respondent no.1-Corporation as far back as 11th September, 2009 to the individual occupants of the flats in the said building. The petitioners have made various representations to the Respondent no.1-Corporation. The last of which being on 5th November, 2015 but the Respondent no.1-Corporation has not acted upon the representations made. Taking into account the fact that the petitioners have no interest in the said building and yet as to ensure that its name is preserved, that this petition has been filed. In these circumstances, it would be appropriate that the respondent no.3-Assessor and Collector considers the petitioners representation as set out in the present petition along with the affidavit-in-reply of dated 14th December, 2016 of Respondent no.1-Corporation and the petitioners affidavit in rejoinder dated 20th December, 2016 and pass an appropriate orders on the representation after hearing the petitioners and all interested parties, as

expeditiously as possible and preferably within six weeks from today.

6. It is made clear that as it is the petitioners case that they are not interested in the said building there is no stay granted of the impugned attachment and recovery notices issued to the petitioners.

7. Petition is disposed of in above terms. No order as to costs.

(A. K. MENON, J.)

(M. S. SANKLECHA, J.)