

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 540 OF 2016

Creation Publicity Pvt. Ltd.

.. Petitioner

v/s.

Municipal Corporation of Greater
Mumbai & Ors.

.. Respondents

Mr. Kishor Maru for the petitioner
Mr. R.Y. Sirsikar for the respondent

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

DATED : 28th APRIL, 2016.

PC.

1. This petition under Article 226 of the Constitution of India challenges warrant of attachment dated 30th January, 2016 issued under Section 202 and 203 of the Mumbai Municipal Corporation Act, 1888.

2. The grievance of the petitioners is that consequent to a special notice issued under Section 162(2) of the Act, the petitioners had filed their complaint objecting to the proposed enhancement of the property taxes. The Assistant Assessor & Collector /K/West ward had received complaints dated 7th August, 2013 (Exh.B), 9th October, 2013 (Exh.D)

and 25th July, 2014 (Exh.F). These three complaints are in respect of the period commencing from 1st April, 2010 to 31st March, 2015 (Exh.'B' 'D' and 'F'). The petitioner's have not yet been heard on its complaints as mandated under the Act nor the complaints have as yet been disposed of. In the above view, the impugned attachment dated 30th January, 2015 is without jurisdiction.

3. An attachment of property under Section 203 of the Act can only be on account of failure to pay property tax bills which can only arise after the petitioner's complaint under Section 162 and 163 of the Act is disposed of by the Authorities under the Act. Therefore, we called upon Mr. Sirsikar, the learned Counsel for the respondent Corporation as to how in the peculiar facts the attachment could be justified. No explanation was forthcoming. We, therefore, quash and set aside the impugned warrant of attachment dated 30th January, 2016.

4. Mr. Sirsikar, learned Counsel appearing for the respondent Corporation, on instructions, states that within the period of four weeks from today, the Assessor and Collector, K/West ward will dispose of the petitioner's complaint after following principles of natural justice.

5. It is made clear that the amount of Rs.7.38 lakhs deposited by the petitioner's consequent to the orders of this Court dated 26th February, 2016 will continue to be a deposit with the Corporation, subject to the order to be passed on the petitioner's complaint.

6. The petition is disposed of in the above terms.

(A.K. MENON, J.)

(M.S. SANKLECHA, J.)