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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.1384 OF 2015**

Enpar Buildcon LLP & Anr.

..Petitioners

*Versus*The Assistant Assessor & Collector
Assessment & Collection Department,
Mumbai & Ors.

..Respondents

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Mr. Nikhil Sakhardande a/w Mahek Kamdar i/b. Kanga & Co. for the
Petitioners.

Mr. S. S. Pakale a/w H. C. Pimpale for the Respondents.

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**CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.****DATE : 21st JULY, 2016**

PC.:

At the request of the counsel, the petition itself is being disposed of finally at the stage of admission.

2. This Petition challenges:

(a) the special notice dated 12th December, 2014 issued under Section 162(2) of the Mumbai Municipal Corporation Act (the Act);

(b) the consequent demand notices dated 20th March, 2015 and 25th March, 2015; and

(c) the warrant of attachment dated 30th March, 2015 issued under

Section 203 of the Act.

3. The grievance of the petitioners is that its objections/complaint dated 22nd December, 2014 to the special notice dated 12th December, 2014 has not been disposed of by following the procedure prescribed under the Act, viz. Granting of a personal hearing. In the above view, it is submitted that the demand notices as well as the warrant of attachment are unsustainable in law and be set aside.

4. Mr. Pakale, the learned counsel appearing for the Corporation states that the complaint as filed by the petitioners is bereft of any particulars. In that view, the complaint dated 22nd December, 2014 is not a complaint in substance as it does not satisfy the requirements of Section 163 of the Act which mandates specifying the grounds of complaint. In the above view there was no obligation upon the Corporation to hear the petitioners as there is no complaint filed with the Corporation.

5. Prima facie we find merit in the submission made by Mr. Pakale. However, we notice that on 10th April, 2015 when ad-interim relief was granted to the petitioners, the respondent-Corporation had admitted that the complaint has been filed by the petitioners and has not been heard in accordance with the provisions of Section 165 of the Act. The complaint dated 22nd December, 2014 as filed by the petitioners was considered by the Corporation as a complaint worthy of hearing in terms of Section 165

of the Act. It is in view of the admitted position as recorded in the order dated 10th April, 2015 that we direct the Corporation to hear the petitioners complaint dated 22nd December, 2014. In the above view, the petitioners would dispose of the complaint dated 22nd December, 2014 within a period of two weeks from today after granting a personal hearing. Further it is made clear that the warrant of attachment dated 30th March, 2015 is not disturbed till the disposal of the petitioners complaint.

6. By the consent of the Advocates, the first hearing of the complaint is fixed on 27th July, 2016 at 11.00 a.m. before the Assessor and Collector, G/South West Ward, 4th Floor, Room No.22, N. M. Joshi Marg, Elphinstone Road, Mumbai-400 013.

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

(A. K. MENON, J.)

(M. S. SANKLECHA, J.)