FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

Writ Petition No. 1072 of 2016

Tarek Ahmed Azizuddin Faruqi

v.

Govt. of Maharashtra & ors.

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

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Mr. B.M. Khan Advocate for Petitioner.

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Coram : Smt. Vasanti A. Naik &
V.M. Deshpande, JJ.

Date : 09th March, 2016.

By this writ petition, the petitioner seeks a declaration that the fixation and imposition of the property tax on the residents of Tahsil Karanja (Lad), District Washim, in the State of Maharashtra, for the year 2012-2016 is not in accordance with the provisions of law. The petitioner has sought to challenge the action on the part of the Nagar Parishad, Karanja (Lad), of imposing the property tax for the year 2012-2016.

According to the petitioner, the imposition of the tax by the Nagar Parishad is on an extremely higher side. It is stated that though the house tax should not be more than 10% of the rental value, the respondent- Nagar Parishad has imposed the tax, that is more than 10% of the rental value. It is stated that it is resolved by Nagar Parishad, Karanja (Lad), that the tax should be reassessed/re-fixed.

Shri Deshmukh, the learned counsel for the Nagar Parishad, states that the Authorised Valuation Officer, Karanja (Lad), i.e. the Assistant Director of Town Planning, Washim, has proposed the rate to be fixed for taxation for different types of building like RCC, Load bearing, Tin, Brick, Cement and Zopadi etc. It is stated that the Collector had constituted a Committee to look into the objections raised by the residents of Karanja (Lad). It is stated that the petitioner has an alternate remedy of filing an appeal before the Judicial Magistrate under Section 169 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965. It is stated that without availing the alternate remedy, the petitioner has rushed to this Court. The learned counsel prayed for the dismissal of the writ petition on the ground of alternate remedy.

We uphold the preliminary objection raised on behalf of the respondents to the tenability of the writ petition on the ground of alternate remedy. In view of the existence of an alternate and efficacious remedy, it would be necessary for the petitioner to file an appeal against the alleged excess tax claimed by the Nagar Parishad from the petitioner, under Section 169 of the Act of 1965. Only because the petitioner would be required to deposit 50% of the tax claimed while filing the appeal, it cannot be said that the alternate remedy is not an efficacious one. Even otherwise, it would not be appropriate for us to decide the issues involved in this case in exercise of the writ jurisdiction under Article 226 of the Constitution of India, when several disputed and complicated questions of facts arise for determination. Hence, we decline to entertain the writ petition. The writ petition is dismissed, with no order as to costs. The petitioner is free to avail the alternate remedy, if so advised. The points raised in the petition are kept open.

Judge **Judge**

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