

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1991 OF 2012
WITH
WRIT PETITION NO. 2485 OF 2012

INDUS TOWERS LIMITED
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Petitioners : Shri Deshmukh Sachin S.
AGP for Respondents 1 to 3 : Shri Gujrathi Y.G.
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CORAM : RAVINDRA V. GHUGE & SUNIL K. KOTWAL, JJ.
Dated: November 08, 2017
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PER COURT :-

1. We have heard the learned Advocates for the petitioners, who are identically placed in these two matters and the learned AGP. Contentious issues have been raised by the petitioners.

2. Our attention is drawn to Section 110 of the Maharashtra Land Revenue Code, 1966 ("the Code") which according to the petitioner would be applicable in these two cases.

3. The grievance of the petitioners is that exorbitant amounts have been sought to be recovered as non-agriculture taxes along with penalty. Learned AGP contradicts by submitting on the basis of the affidavit-in-reply that these petitioners have paid such taxes with

reference to 22 out of the 24 mobile towers that they have erected without the requisite permission of the competent authority.

4. We do not wish to enter into the disputed questions since the District Collector, Jalgaon / Ahmednagar ("Concerned District Collector") would be the competent authority under Section 110 of the Code to consider the grievances of the petitioners. At the same time, we cannot ignore the fact that the recoveries of amounts have been stalled due to the pendency of these two petitions, though in the first petition, this Court has directed an amount of Rs.1,00,000/- to be deposited in this Court in the face of the assessment of unpaid taxes of Rs.1,25,000/-. In the second petition, the amounts were not directed to be deposited while granting ad-interim relief.

5. We have also considered the law laid down by this Court in the matter of Shewalkar Developers Ltd. Nagpur Vs. Rupee Cooperative Bank Limited, Pune [2016 (1) Mh.L.J. 382].

6. In the second petition, about 24 towers are involved and it is informed that the recovery, as in 2012, is at the rate of Rs.95,000/- per tower and the total is about Rs.22,80,000/-.

7. We are, therefore, inclined to direct the petitioners to deposit

an amount of Rs.12,00,000/- (Rs. Twelve Lakhs only/-) with the concerned District Collector, Ahmednagar.

8. Considering the submissions of the petitioners and the learned AGP, as noted above, both these petitions are disposed off. The ad-interim protection granted by this Court, thereby preventing the sealing of the towers would continue till the concerned District Collector (Jalgaon in the first petition and Ahmednagar in the second petition) decides the grievances of the petitioners on the following conditions:-

(A) The petitioners shall submit their detailed replies / contentions in pursuance to the impugned notices to the concerned District Collector on/or before 11.12.2017.

(B) The petitioners shall appear in person or through their authorized representative / Advocate before the concerned District Collector on 18.12.2017 at 3.00 PM.

(C) Formal notices need not be issued by the concerned District Collector.

(D) The representation / contention sought to be submitted by the petitioners as directed above, shall be accepted along with the amount of Rs.12,00,000/- (Rs. Twelve Lakhs only/-) in the case of Writ Petition No. 2485 of 2012 at Ahmednagar.

(E) The amount of Rs. 1,00,000/- (Rs. One Lakh only/-) deposited in this Court by the petitioners on 7.3.2012, shall be transmitted to the concerned District Collector, Jalgaon along with the accrued interest.

(F) The petitioners shall cooperate in the hearing before the concerned District Collector and shall abide by the dates of hearing on which the matter is posted.

(F) The concerned District Collector shall conclude the hearing in this matter on/or before the 9.2.2018 and shall deliver his order on/or before 28.2.2018.

(G) If the petitioners do not deposit the amount of Rs.12,00,000/- (Rs. Twelve Lakhs only/-) their representation would not be considered and it shall be presumed that the petitioners have acquiesced their right to contest the impugned notices and would then be liable to suffer consequences that would follow in law.

(H) If the amount is deposited, the protection granted by this Court would continue for a period of two weeks beyond the date of the order of the concerned District Collector.

(I) After the hearing in the matter is over on 9.2.2018, the concerned District Collector shall post the matter on a particular date on/or before 28.2.2018 for pronouncing his judgment so as to enable the parties to remain present

when the judgment is pronounced and collect copies of the same.

(J) Needless to state, if the petitioners in the second petition have already paid the amounts as are demanded by the impugned notices, before the filing of this petition or during its pendency, the petitioner would be liable to deposit 50% of the assessed / demanded amount only with reference to those towers for which the amounts have not yet been deposited.

(K) The amounts deposited under the orders of this Court or having voluntarily been paid by the petitioners, shall be subject to the outcome of the hearing of the representation before the concerned District Collector.

(SUNIL K. KOTWAL, J.)

(RAVINDRA V. GHUGE, J.)

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