

vat

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL No. 194 OF 2009

IN

WRIT PETITION No. 3541 OF 2008

WITH

CIVIL APPLICATION No. 228 OF 2009

IN

LETTERS PATENT APPEAL No. 194 of 2009

Twin Towers Co-op.Hsg. Society Ltd. ...Appellants

Vs.

Brihanmumbai MahanagarPalika and

Anr.

...Respondents

Mr. Vishwajit P. Sawant for the Appellants

Mr. Pradeep M. Patel for the Respondent -BMC

**CORAM : V.M. KANADE &
A.M. BADAR, JJ**

DATE : JUNE 20 , 2017

P.C. :

1. Heard the learned counsel appearing on behalf of the Appellants and the learned counsel for the Respondent Corporation.

2. The grievance of the Appellants is that the proper inquiry was not made by the Investigating Officer and he adopted different rates for different wings. It is not in dispute that the rateable value of the building is required to be assessed when the building is complete and made fit and suitable for occupation. It is also not in dispute that the construction of the Wing Nos. A and B was completed in the year 1995 and the construction of the disputed wing Nos. F and G was completed in the year 1997. The Investigating Officer has treated that construction of all the wings were completed in the year 1997 including disputed wings viz. Wing Nos. F and G merely because it was occupied by the occupants of the Society. It is obvious that the Investigating Officer has committed an error which is apparent on the face of record and the Learned Single Judge has overlooked this issue.

3. Therefore, the impugned order passed by the learned Single Judge dated 1.8.2008 is set aside and the matter is remanded back to the Learned Single Judge. We direct the Learned Single Judge to hold a fresh inquiry and decide the matter afresh on merits and in accordance with law. Letters

(LPA 194 of 2009)

Patent Appeal is disposed of in the aforesaid terms. In view of the disposal of the LPA, Civil Application does not survive and it is accordingly disposed of.

Sd/-
[A.M. BADAR, J.]

Sd/-
[V.M. KANADE, J.]

Vaishali Tikan