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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1403 OF 2017

M/s. Satyam Builders and Developers … Petitioner

vs.

Navi Mumbai Municipal Corporation … Respondents
through the Municipal Commissioner Mumbai and 2 Ors.

…....

Dr. Suneet Gupta for the Petitioner.
Mr. Sandeep V. Marne a/w. Mr.Vishal P. Shirke for Respondent-Corporation.

…....

CORAM : M.S.SANKLECHA &
A.K. MENON, JJ.
DATE : 2nd FEBRUARY, 2017

P. C. :

1. This petition under Article 226 of the Constitution of India is filed seeking the following reliefs : -

"(a) That the Honourable High Court direct the Respondents to unseal the said plot of the Petitioners forthwith;

(b) That the Honourable High Court allow the Petitioners to pay the Property Tax demanded by the Respondents as per a reasonable schedule, as may be directed by the Honourable High Court;

(c) That the Honourable High Court allow the Respondents to seal the said plot again if the Petitioners fail to pay any of the installments regularly and on time, as per the above schedule;

(d) That the Honourable High Court allow the Petitioners to appeal the assessment of the Property Tax amount under Sec 406 of the Maharashtra Municipal Corporation Act, subject to the timely and regular payment of the demanded amount as per the above schedule, by the Respondents;

(e) That the Honourable High Court be pleased to grant ad-interim relief in terms of prayer clause (a) till the next date of hearing this Petition.

(f) That the Honourable High Court provide for the costs of this Petition;

(g) That the Honourable High Court pass any other order that it may deem fit and proper in the interests of justice in the case."

2. The petition was moved on 27th January, 2017 for urgent reliefs as the petitioner's property had been sealed on 24th January, 2017 for non payment of property taxes aggregating to Rs. 2.29 crores to the respondent Navi Mumbai Municipal Corporation (the 'Corporation'). This sealing of the petitioners property was consequent to an attachment notice dated 23rd January, 2017.

3. By an order dated 27th January, 2017 the Corporation was directed to unseal the site office of the petitioners which had been sealed on 24th January, 2017 for non payment of property taxes. At that time Dr. Gupta, learned Counsel for the petitioner offered to pay as goodwill gesture an amount of Rs. 50 lakhs to

the Corporation. Today we are informed that consequent to our order dated 27th January, 2017 , the Corporation has de-sealed the site office of the petitioner. Further, we are informed that the payment of Rs. 50 lakhs has been made by the petitioner to the respondent – Corporation on 31st January, 2017.

4. Dr. Gupta, learned Counsel for the petitioner states that the property tax bill as served upon it indicates that the property taxes could be paid by the petitioner on or before 31st March, 2017 alongwith interest for the delayed payment. In fact the property taxes bill itself indicates the varying amounts payable, if paid before stipulated dates. The last such amount is Rs. 2.35 crores (payable), if paid on or before 31st March, 2017.

5. In the above view, Dr. Gupta seeks time to make the payment of property tax on or before 31st March, 2017, although it would be the honest endeavour of the petitioner to pay the amounts demanded as expeditiously as possible, subject to its right to appeal. In support of the above, an undertaking of Mr.Lovmesh Patel, partner of the petitioners firm is filed. All that he seeks is that the respondent-Corporation should not adopt coercive proceedings till 31st March, 2017.

6. Mr. Marne, learned Counsel appearing for the Corporation states that subject to the attachment of the property continuing, the respondent Corporation

will not adopt any coercive proceeding to recover property taxes till 31st March, 2017.

7. In view of the above statement made by Mr. Marne on behalf of the Corporation, Dr Gupta on instructions withdraws the petition.

8. However, it is made clear that the petitioners are at liberty to file an appeal under Section 406 of the Maharashtra Municipal Corporation Act within the stipulated time. All contentions left open to be urged by the petitioners before the Appellate Authority in appeal. However, the appeal would be heard only on the petitioner satisfying the statutory requirement of deposit of the property taxes as demanded, with the Corporation on or before 31st March, 2017. Needless to state, the respondent Corporation will give credit to the petitioner of Rs. 50 lakhs already paid on 31st January, 2017 while computing the amount of property taxes payable depending upon the date of payment as per the Schedule mentioned in the bill annexed to the petition at Exh-'F".

9. In the above view, the petition is disposed of as withdrawn. No order as to costs.

(A.K. MENON,J.) **(M. S. SANKLECHA,J.)**