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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3364 OF 2017

Aircel Ltd. ..Petitioner
Versus
Mira Bhayander Municipal Corporation
& Ors. ..Respondents

....

Mr. Hafeezur Rehman for the Petitioner.
Mr. N. R. Bubna for the Respondent-Corporation.

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CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 21st MARCH, 2017

P.C.

1. This petition under Article 226 of the Constitution of India challenges the action of respondent no.1-Corporation in sealing the petitioner's mobile tower at Yamuna Tower Jangid Computer Co-op. Housing Society, Mira Road (said Mobile Tower). This sealing was done on 11th March, 207 for alleged non-payment of property taxes and penalty. Besides, the petitioner also challenges the final notice and warrant of attachment being Exhibit 'A' and 'B' to the petition for non-payment of property taxes under the Maharashtra Municipal Corporations Act (the Act).

2. Mr. Bubna, the learned counsel appearing for the respondent-Corporation states that the said mobile tower which had been sealed on 11th March, 2017 has been de-sealed, yesterday evening, after the petition was filed. Mr. Bubna further, on instructions, states that the respondent-Corporation will not adopt such extra legal remedies to recover their property dues i.e. sealing the petitioner's properties so as to coerce them into making payment of property taxes, which according to it are still due and payable. The aforesaid statement Mr. Bubna states is on instructions of respondent no.3, Assessor and Collector, Ms. Swati Deshpande. The statement made on behalf of the Corporation is accepted.

3. So far as the petitioner's grievance with regard to the final notice (Exhibit A) and warrant of attachment (Exhibit B) is concerned, the petitioners have by a communication dated 16th March, 2017 made a representation to the Corporation. The aforesaid communication point out the lack of jurisdiction to issue final notice and attach the petitioners said mobile tower particularly as to the property taxes have all been paid.

4. Mr. Bubna, the learned counsel for the respondent-Corporation states that the representation dated 16th March, 2017 would be disposed

of by the Corporation after hearing the petitioners in accordance with law. It is clarified that till the disposal of the representation dated 16th March, 2017 the respondent-Corporation will not adopt any coercive measures to recover property taxes.

5. In view of the statement made by Mr. Bubna, the learned counsel for the respondent-Corporation, Mr. Rahman, the learned counsel appearing for the petitioner seeks to withdraw the petition. Petition is allowed to be withdrawn.

6. Accordingly the petition is disposed of as withdrawn. No order as to costs.

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

Wadhwa