

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
CIVIL APPLICATION NO. 2533 OF 2017
IN
WRIT PETITION NO. 12839 OF 2015

Idea Cellular Limited and anotherPetitioners

V/s.

Pune Municipal Corporation and othersRespondents

Counsel Mr. Zubin Behramkamdin a/w Ms. Sneha Jaisingh a/w Mr. Anikit Pathak for the applicant.

Mr. R. M. Pethe for the respondent no. 1

**CORAM : SMT. VASANTI A. NAIK,
RIYAZ I. CHAGLA, JJ.**

DATE : NOVEMBER 28, 2017.

P.C.

By this civil application, the petitioner seeks a stay to the effect and operation of the impugned letters dated 16/10/2017 and 26/10/2017 revoking the permission granted to the petitioner for laying underground cables.

The learned counsel for the respondent-Corporation raises a preliminary objection to the tenability of the application. It is stated that by challenging the order of revocation, by the civil application, the nature of the petition is changed. It is stated that by filing the writ petition, the petitioner

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has challenged the levy of penalty in respect of O.F.C. It is stated that since the cause of action for filing the writ petition is entirely different from the cause of action for filing the civil application, the application may not be maintainable.

On a reading of the prayer clause in the writ petition and in the civil application, we uphold the preliminary objection raised on behalf of the respondent-Corporation and decline to entertain the civil application. The petitioner is free to take up appropriate proceedings for challenging the order of revocation of the permission for laying the underground cables, if so advised. The points raised in the application are kept open. The civil application stands disposed of accordingly.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A. NAIK, J.]