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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 1136 OF 2017

The Tata Power Company Ltd. ...Petitioner
vs
The Collector & Anr. ...Respondents.

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Mr P.K.Dhakephalkar, Sr. Counsel a/w Mr P.S.Dani, Sr. Advocate, Ms
Jui Nerurkar, Mr H.N.Vakil, Ms S.M.Vakil, Mr Rushil Mathur i/b Mulla
& Mulla & Creigie Blunt & Caroe for the Petitioner
Mr Rajesh Datar, Special Counsel a/w Mr Pralhad Paranjpe a/w Ms
Geeta Shastri Addl.G.P. for the Respondent Nos.1 and 2 -State

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**CORAM : SHANTANU S. KEMKAR &
B.P.COLABAWALLA, JJ.**

APRIL 21, 2017

P.C. :

Not on board. Upon mentioning taken on board.

2. Challenging the order/notice dated 12th April, 2017
(Exhibit "J") issued by Respondent No.1, the Petitioner has filed this
Petition.

3 A preliminary objection has been raised on behalf of the
Respondents that since against the impugned notices, an efficacious
alternative remedy under Section 274 of the Maharashtra Land

Revenue Code, 1966 of filing an Appeal before the Maharashtra Land Revenue Tribunal is available to the Petitioners, the Petition be not entertained.

4 The learned Senior Counsel for the Petitioner submits that in view of the aforesaid preliminary objection, the Petitioners may be permitted to withdraw this Petition with liberty to the Petitioner to approach the Tribunal by filing Appeal under Section 274 of the Maharashtra Land Revenue Code, 1966. He further prays that as there is every likelihood that Respondents may take possession of the property of the Petitioner in execution of the impugned notice, a protective order for a limited period may be passed so that the Petitioner may apply for stay before the Tribunal in the Appeal as may be filed.

5 Taking into consideration the facts and circumstances of the case, we allow the Petitioner to withdraw the Petition with liberty to challenge the impugned order/notice before the Tribunal. We also record the statement made by the learned Counsel for the Respondents that the Respondents shall not take steps for recovery of the possession in pursuance of the impugned order/notice till the stay application is decided by the Tribunal.

6 The Petitioner to file Appeal on or before 8th May, 2017 before the Tribunal along with the stay application.

7 We direct the Tribunal to decide the stay application, if filed by the Petitioner for interim relief on or before 31st May, 2017.

8 The statement made by the learned counsel for the Respondents shall continue till the stay application is decided by the Tribunal and for a further period of two weeks in case the decision will be adverse to the Petitioner. The said statement shall be without prejudice to the rights and contentions of the parties. The Tribunal shall decide the stay application and the Appeal on its own merits. The Tribunal shall make endeavor to decide the appeal also as expeditiously as possible.

9 Needless to say that we have not expressed our opinion on the merits of the matter and all contentions are kept open.

10 The Petition is disposed of.

(B. P. COLABAWALLA, J.)

(SHANTANU S. KEMKAR, J.)