IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 741 OF 2016

New Era Fabrics Limited … Petitioner.
V/s.
Municipal Corporation of Greater
Mumbai and anr. … Respondents.

Mr. M.M. Vashi, Senior Advocate a/w. Ms Aparna Devkar i/b M.P. Vashi Associates for the Petitioner.
Ms Kejali M. for the Respondent – BMC.
Smt. Dolly Shah, Ward Inspector G/N Ward is present.

CORAM : A.S. OKA AND M.S. SONAK, JJ.

DATE : 20TH DECEMBER 2017.

P.C.:

1] Heard the learned senior counsel appearing for the petitioner and the learned counsel appearing for the respondents.

2] The learned senior counsel appearing for the petitioner has tendered across the bar a letter dated 28th December 2016 addressed to the petitioner by Assistant Assessor & Collector /GN Ward. The letter is taken on record and marked as "X1" for identification. The third paragraph of the said letter reads thus:

> *"In the light of the above facts and as per the directions of Hon. Assessor & Collector, the attachment action as stated above is hereby withdrawn subject to payment of the amount of Rs.23118660/- towards property taxes as per the interim orders in the Writ petition No. 2592 of 2013 along with other Writ Petitions clubbed together challenging the Capital Value System by Hon'ble Divisional Bench of*

High Court Mumbai, details of which have been mentioned in the attached statement and copy of which has already been served on your personally. Further you are also hereby requested to furnish the information as required U/s 152 & 155 of M.M.C. Act, 1888. in the attached prescribed format so as to enable this office to resolve your various disputes as per the provisions of M.M.C. Act. 1888. It is agreed that no further payments towards property tax shall be demanded by BMC till the time all issues raised by you in the various complaints made by you since 2010 with regards to property tax are finally settled and issues pending in the high court in the above writ petitions with regards to property tax based on Capital Value are finally decided by the High court or to the Supreme Court."

3] Learned senior counsel appearing for the petitioner states that a part of amount of Rs.2,31,18,660/- has been deposited by the petitioner and that the petitioner is willing to deposit the balance amount. Learned counsel appearing for the respondents, on instructions from Smt. Dolly Shah, Ward Inspector, G/N Ward from Assessment Department, states that if the balance amount is deposited, appropriate Officer of the Municipal Corporation will give hearing to the petitioner in terms of what is stated in the said letter. We accept the aforesaid statement.

4] It is obvious that what is stated in 3rd paragraph of the letter dated 28th December 2016 applies to various complaints made by the petitioner in respect of the property taxes in relation to the subject property from 2010 till the date of the said letter. It will naturally include the complaint dated 1st September 2015 which is the subject matter of this petition.

5] The learned counsel appearing for the respondents tried to submit that for subsequent period further property taxes are payable by the petitioner. However, in this petition, we are concerned with all the complaints which were pending up to 28th December 2016. As per assurances contained in the said letter in relation to all the complaints which were pending till the date of the said letter, save and except the amounts mentioned in the said letter, the 1st respondent cannot demand any further amounts from the petitioner till all the issues are decided by the respondents.

6] What is stated in the said letter will not apply to any demand or any complaint subsequent to 28th December 2016.

7] Subject to what is observed above, we dispose of the petition by passing the following order:

(a) We grant time of one month to the petitioner to deposit the balance amount payable out of the sum of Rs.2,31,18,660/-. We make it clear that if the entire balance amount is not deposited by the petitioner with the 1st respondent within a period of one month from today, the concession made by the 1st respondent which is recorded in the letter marked as X1, will not apply and it will be open for the 1st respondent to demand further payments towards property taxes and take appropriate steps;

(b) If the balance amount as aforesaid is deposited within stipulated time, appropriate Officer of the 1st respondent shall give hearing to the petitioner in terms of what is stated in the said letter and will resolve the various disputes raised by the petitioner in the complaints upto the date of said letter including the one which is the subject matter of this petition;

(c) Hearing shall be concluded and appropriate order shall be passed by the appropriate Officer of the 1st respondent within a period of four months from the date of deposit of balance amount;

(d) All contentions are kept open;

(e) This petition is disposed of in the aforesaid terms;

(f) All concerned to act on the authenticated copy of this order.

(M. S. SONAK, J.) (A.S.OKA, J.)