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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1449 OF 2014

Larsen & Toubro Limited & Anr.

... Petitioners

Vs.

The Municipal Corporation of Greater Mumbai and Ors. ... Respondents

Mr. E. P. Bharuch, Senior Counsel, Mr. Sarosh E. Bharucha, Ms. Subhasree Chatterjee i/by Manilal Kher Ambalal & Co. for the Petitioners.

Ms. Vandana Mahadik for the Respondent No.1 – BMC.

Mr. M.A. Sayed, AGP for Respondent No.7.

CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.

DATE : 28th JUNE, 2017

PC.

1 Called out for admission. Heard the learned Senior Counsel appearing for the petitioners. The challenge in this Petition under Article 226 of the Constitution of India is to the property tax bills issued by the Mumbai Municipal Corporation. The learned Senior Counsel appearing for the petitioners submits that a remedy of Appeal under Section 217 of the Mumbai Municipal Corporation Act, 1888 (for short “the said Act of 1888”) is not an efficacious remedy.

2 In our view, the contentions which are raised in this Petition can be always raised in the Appeals which may be preferred by the petitioners under Section 217 of the said Act of 1888 and that the same can be effectively dealt with by the Appellate Forum.

3 The learned Senior Counsel appearing for the petitioners submitted that the order dated 17th November, 2011 in Writ Petition No.754 of 2011 has not been complied with. Firstly, we may note that even going by Exhibit – M to the Petition, hearing was given to the petitioner and to the MMRDA. Moreover, now property tax bills have been issued on the basis of the said assessment notices. In any case, the contention raised on the basis of the said order of this Court can be always raised in a statutory Appeal.

4 Therefore, we decline to entertain this Petition under Article 226 of the Constitution of India. The Petition is rejected by keeping open the statutory remedy of the petitioners.

5 If the petitioners avail the remedy of Appeal, the concerned Appellate Court is bound to note that the present Petition was lodged on 22nd November, 2013 which remained pending till today.

6 All contentions on merits are kept open to be decided by the Appellate Court.

7 At this stage, the learned Senior Counsel appearing for the petitioners tenders across the Bar an order dated 12th May, 2016 passed by the Apex Court in Civil Appeal No.6539 of 2014 (Simplex Infrastructure Ltd. Vs. The Municipal Corporation of Greater Mumbai and Ors.). He submits that requirement of pre-deposit be dispensed with in terms of the said order of the Apex Court.

8 We have carefully perused the said order. On plain reading of paragraphs 2 and 3 of the said order, the directions issued therein are in exercise of powers under Article 142 of the Constitution of India. Therefore, the prayer made by the petitioners on the basis of the said order merits no consideration.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)