

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7635 OF 2018

Rakesh Shah and Anr.	..	Petitioner
Versus		
Municipal Corporation of Greater Mumbai & Anr.	..	Respondents

WITH
WRIT PETITION ST.NO.20079 OF 2018

Ashok Bagal	..	Petitioner
Versus		
Municipal Corporation of Greater Mumbai & Anr.	..	Respondents

WITH
WRIT PETITION ST.NO.20083 OF 2018

Ranjit Singh Linga and Anr.	..	Petitioners
Versus		
Municipal Corporation of Greater Mumbai & Anr.	..	Respondents

WITH
WRIT PETITION ST.NO.20087 OF 2018

Indravardhan Purohit	..	Petitioner
Versus		
Municipal Corporation of Greater Mumbai & Anr.	..	Respondents

WITH
WRIT PETITION ST.NO.20093 OF 2018

Indravardhan Purohit, Partner of M/s. Purohit General Stores	..	Petitioner
Versus		
Municipal Corporation of		

Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST.NO.20094 OFG 2018

Ravindra Chopra, Prop. Of
M/s. Bombay Interstate Transport .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST.NO.20095 OF 2018

Ranjit Singh Linga .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST.NO.20096 OF 2018

M/s. Glorimex Pvt. Ltd. .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST.NO.20107 OF 2018

M/s. Giriraj Holdings and Estate
Developers Pvt. Ltd. .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST. NO.20108 OF 2018

Indravardhan Purohit .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST.NO.20110 OF 2018

Indravardhan Purohit .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

WITH
WRIT PETITION ST.NO.20112 OF 2018

Sushil Joshi
Partner of A-1 Profile .. Petitioner
Versus

Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

Mr. Gopal C. Mehta with Mr. Ramsing I/b. Mr. Rajnale Vasant P. for
petitioners in all matters

Mr. J. Xavior with Sangamitra with Mr.Gharpure and P.M.Patil for
M.C.G.M.

Mr. Sameer R. Bhalekar for respondent No.2.

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 18th July 2018.

P.C.

All these writ petitions are heard and the same are
decided and disposed of with a common order as similar issue is
involved in all these petitions. In all these petitions the issue is
dismissal of notices of motion taken out by respective plaintiffs in all

the respective suits for similar reliefs.

2] The plaintiffs have filed their respective suits challenging the notice issued under section 351 of the Mumbai Municipal Corporation Act. The plaintiffs in all these twelve suits were cross examined by an Advocate one Mr. Bhadang and the plaintiffs found that Mr. Bhadang was authorised to appear only in one matter i.e. L.C.Suit No.1482 of 2009 and not in remaining 12 suits, that is the group forming from L.C.Suit No.1483 of 2009 to L.C.Suit No.1494 of 2009.

3] The plaintiffs, therefore, raised an issue that Mr. Bhadang had cross examined the respective plaintiffs in the group of L.C.Suit No.1483 of 2009 to L.C.Suit No.1494 of 2009 and, therefore, the respective cross examination of these plaintiffs be struck off and ignored. Since this issue raised was dismissed by the learned trial Judge, these petitions are filed challenging the said dismissal.

4] Learned Counsel for the petitioners submits that the respondent i.e. defendant No.1 is Mumbai Municipal Corporation in

all these suits and was required to follow certain procedure while appointing Advocates to conduct the legal matters in the Court. He submitted that under Right to Information Act, 2005 the plaintiffs made an application dated 5th October 2013 and received information from the office of respondent No.1 – Municipal Corporation that Advocate Mr. Bhadang is appointed only in one matter i.e. L.C.Suit No.1482 of 2009 and he is not appointed in other remaining 12 matters. Learned Counsel for petitioner further pointed out a letter to this effect so also a submission dated 20th March 2018 made by Assistant Law Officer K-East Ward, Deputy Law Officer, City Civil Court (WS) and Joint Law Officer, City Civil Court to the Law Officer. He further submitted that this submission was perused by the Law Officer and no order was passed on this submission. Therefore, till today Mr. Bhadang is not appointed to conduct these remaining 12 matters in Court. He therefore submitted that the order passed by the learned Judge is illegal and be set aside and the respective notices of motion in all these 12 suits be allowed.

5] Learned Counsel for the Corporation while opposing these submissions has pointed out that the Law Officer has signed

below the aforesaid submission dated 20th March 2018 so also Mr. Bhadang has endorsed on the same agreeing to conduct the remaining matters. The counsel further submitted that though the Corporation has engaged Mr. Bhadang to represent Corporation in L.C.Suit No.1482 of 2009, he was instructed to appear in all the 12 suits. Learned Counsel further submitted that such arrangement is often made in order to save expenses of the Corporation. He further submitted that Mr. Bhadang in fact has accepted it and has conducted the cross examination of the respective plaintiffs. Learned Counsel for Corporation, therefore, supports the impugned order and prays that these petitions be dismissed.

6] Heard the arguments of both sides. I have perused the aforesaid submission dated 20th March 2018 made by three Law Officers of the Corporation in B.C.C.C. Suit No.1482 of 2009 and in Group of L.C.Suit No.1483 of 2009 to L.C.Suit No. 1494 of 2009, by which orders from the Law Officer are sought to the effect that Mr. Bhadang is on the Panel of Legal Officers of the Corporation and he be allowed to conduct the matters aforesaid. From the submission it is clear that the Law Officer has signed the same and below his signature there is a typed note of Mr. Bhadang, Advocate

to the following effect:-

“ ... In view of the above I agree to conduct other remaining matters i.e. suit Nos. 1483 of 2009 to 1494 of 2009 on behalf of Corporation and for that I will not charge. ...”

This acceptance from Mr. Bhadang discloses that he has agreed to conduct all the suits. However, it is necessary for the Law Officer who has signed the submission, to at least mention that Mr. Bhadang is appointed with retrospective effect to represent the Corporation. This mention, apparently is missing. However, the intention of the Corporation is amply manifested and clear that the Corporation has instructed and requested Mr. Bhadang to appear in all these suits and to go ahead with the same.

The appointment of Advocate is a matter between the client and Advocate. It appears that the Corporation has not disowned any act done by the Advocate on its behalf in all these suits and thus the Corporation has adopted and ratified all the acts and actions which are done by Advocate Bhadang in all these 12 suits. If Corporation would have disowned Mr. Bhadang and stated specifically that it has not instructed Mr. Bhadang to take steps or

cross examine or appear in these suits, then, it was obligatory on the part of Court to strike off and ignore the cross examination of the plaintiffs or to allow other Advocate of Corporation to again conduct cross of witnesses.

7] The Corporation – respondent No.1 has filed affidavit in reply of one Mr. Rajiv Doshi, working as Sub-Engineer (B & F) K-East ward dated 22nd March 2018, to the Notice of Motion wherein in paragraph 7 the deponent has specifically mentioned that when the docket was given to Mr. Bhadang in respect of Suit No.1482 of 2009, it was the understanding between the Corporation and Mr. Bhadang that he would represent Corporation in all the suits as its Counsel/Advocate. Mr.Doshi has highlighted and explained the practice followed by the Corporation while engaging the Advocate in group matters. He has stated that generally in one matter the advocate is engaged with a understanding that he would represent the Corporation in all the suits as Counsel for all the matters. In line with this practice, Mr. Bhadang has represented the Corporation in all the suits from 2012 onwards till today.

8] In view of this the order passed by the learned Judge of

the trial Court cannot be faulted with. These petitions are therefore dismissed.

Yogeshwar
Bhalchandra
Gokhale

Digitally signed by
Yogeshwar
Bhalchandra
Gokhale
Date: 2018.07.20
21:07:58 -0400

(MRS.MRIDULA BHATKAR, J.)