IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11940 OF 2016

Mr. Omprakash Sharma ..Petitioner.
v.
Mumbai Municipal Corporation and others ..Respondents.

ALONGWITH

WRIT PETITION NO.12018 OF 2016

Mr. Panalal R. Saroj ..Petitioner.
v.
Mumbai Municipal Corporation and others ..Respondents.

Mr. Suresh M. Sabrad for the petitioners.
Mr. Sandeep V. Marne, for the respondent Nos.1 and 2.

CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.

DATE : 12th MARCH, 2018

P.C.

1 Heard the learned Counsel appearing for the petitioners and the learned Counsel appearing for the 1st and 2nd respondents. Writ Petition No.11940 of 2016 concerns the Shop No.1, which is more particularly described in Paragraph No.3 of the petition. The first prayer in this petition is for directing the first respondent Municipal Corporation to

accept the property tax from the petitioner with respect to shop No.1 and not to insist on the payment of property tax in respect of the entire building, in which the shop premises is situated. The second prayer is for enjoining the respondents to accept the applications made by the petitioner for issuing various licences.

2 Writ Petition No.12018 of 2016 contains similar prayers in respect of shop No.3, more particularly, described in paragraph No.3 of the petition.

3 The learned Counsel for the 1st and 2nd respondents on instructions states that now separate bills are being issued to the petitioners in respect of Shop Nos.1, 2 and 3 of the subject building on Plot No.9B, Sector No.10, Koparkhairne, Navi Mumbai and separate bills will be issued hereafter. He has tendered on record a chart showing total demand of property taxes in respect of shop Nos.1, 2 and 3. The same is taken on record and marked as C-1 for identification. The chart shows that in respect of three shops, a sum of Rs.3,00,000/- each has been deposited towards the property taxes and the property taxes payable upto March 2018 were Rs.1,00,838/-, Rs.1,14,336/- and Rs.2,21,487/- respectively. Thus, the petitioners have made excess payment.

4 The learned Counsel appearing for the petitioners submits that the excess amount be ordered to be refunded. The learned Counsel appearing for the 1st and 2nd respondents submits that the excess amount can be adjusted towards the bills issued for the period subsequent to March 2018.

5 Considering the aforesaid statements made by the learned Counsel appearing for the 1st and 2nd respondents on instructions, the first substantive prayer does not survive. As far as the prayer for refund is concerned, the petitioners will have to make an application to the 1st respondent-Municipal Corporation for grant of refund.

6 As the petitioners have paid the property taxes upto date, the first respondent cannot refuse to accept the applications which may be made by the petitioner for grant of various licences and the said applications, if made, will have to be decided expeditiously. Hence, we dispose off the petitions by the following order :

O R D E R

1 We accept the aforesaid statements made by the learned Counsel appearing for the 1st and 2nd respondents on instructions. We also accept correctness of the statements made in the chart tendered in the Court which is taken on record and marked as C-1 for identification;

2 It will be open for the petitioners to apply to the 1st respondent for refund of excess amount paid towards property taxes payable upto March 2018. If such applications are made for the refund in respect of Shop No.1 to 3, the same shall be decided by the said respondent within the period of one month from the date of filing of the applications;

3 It will be open for the petitioners to apply for grant of requisite licences in respect of the said Shop Nos.1 to 3. If

such applications are made, the same shall be decided within a period of 6 weeks from the date such applications are made;

4 Both the petitions are disposed of on the above terms.

(RIYAZ .I.CHAGLA, J) **(A.S. OKA, J)**