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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11710 OF 2015

Reliance Communications Ltd.
and others ...Petitioners
vs.
Ulhasnar Municipal Corporation
and others ...Respondents

Mr.Cyrus Bharucha a/w Mr.Paresh Patkar i/b Mulla & Mulla & Craegie Blunt & Caroe for the Petitioners
Mr.Milind Vasant More for the respondent Nos.1 and 2.

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA, JJ.
DATE : APRIL 3, 2018

P.C.:

1 Heard the learned counsel appearing for the petitioner and the learned counsel for the respondents. The parties were negotiating for amicable settlement. As the amicable settlement could not take place, we have taken up the petition for admission.

2 The challenge is to the demand of property taxes and penalty by the first respondent-Municipal Corporation in respect of Base Transmission Station Tower/Antenna. Now, the law on this aspect is very clear. The first respondent has power to levy property taxes in respect of such Base Transmission Station Tower/Antenna. Therefore, as far as the demand for property taxes is concerned, more

appropriate remedy for the petitioners will be to prefer a statutory appeal under section 406 of the Maharashtra Municipal Corporations Act,1949. The learned counsel for the respondents states that the respondents will not insist on the demand made under the caption "Late payment penalty" which is claimed by way of Exhibits A and B. He states that after following due process of law, a fresh demand will be raised by the respondents on this account. We accept the said statement. He states that the aforesaid statements are made on instructions of Shri Dadasaheb A. Patil, Deputy Commissioner (Tax).

3 Hence, we dispose of this petition by passing the following order:

(I) In view of the aforesaid statements made by the respondents, no steps shall be taken by the respondents for recovery of the amounts demanded under the caption of "Late payment penalty" as set out in Exhibits A and B. However, it will be open for the respondents to make a fresh demand for penalty after following due process of law;

(II) As regards the demand for property taxes, it will be open for the petitioner to prefer an appeal under section 406 of the Maharashtra Municipal Corporations Act,1949;

(III) If such remedy of appeal is adopted, the concerned authority is bound to note that the present petition was filed in this Court on 5th December 2014 and that the same remained pending till today;

(IV) All contentions on merits are kept open;

(V) Writ Petition is disposed of accordingly.

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