

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 721 OF 2017

Eros Theatre and Restaurant }		
Private Limited }		Petitioner
versus		
State of Maharashtra }		
and Ors. }		Respondents

**WITH
WRIT PETITION NO. 753 OF 2017**

S. C. Cambata Trust }		Petitioner
versus		
The State of Maharashtra }		
and Ors. }		Respondents

Ms. Sukanya Bhounik i/b. M/s. AZB and Partners for the petitioner in WP/721/2017.

Dr. Birendra Saraf i/b. Ms. Sonu Tandan for the petitioner in WP/753/2017.

Ms. Geeta Shastri with Mr. Kedar Dighe-AGP for State.

**CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE :- FEBRUARY 21, 2018

P.C. :-

1. In the light of the order passed by this court on 19th January, 2017 and after hearing all parties, the grievance of the petitioner is more or less redressed. What we have noted is that after that order, on 3rd February, 2017, an affidavit has been filed

by the contesting respondents. That affidavit indicates that an order was passed by the competent court in a Complaint (ULP) No. 196 of 2016. Pursuant to that order, a certificate of recovery was drawn up styled as revenue recovery certificate dated 23rd September, 2016. That was put in execution and enforcement enabling the authorities to recover the amount thereunder as arrears of land revenue.

2. The affidavit admits that if the certificate is issued pursuant to orders of the Industrial Court and has to be executed and enforced in terms of the powers conferred in the authorities under the Maharashtra Land Revenue Code, 1966, which Code and the Rules made thereunder have been specifically referred, then, we do not see any apprehension of the petitioner surviving for our consideration. Once the certificate has to be enforced and executed in accordance with law, then, no coercive measures can be taken except in accordance with law. That assurance is forthcoming from this affidavit. Additionally, we find that the Chapter, which is inserted in the Maharashtra Land Revenue Code, 1966 for the City of Mumbai contains all the provisions (Chapter XIV, titled as “Special Provisions of Land Revenue in the City of Bombay”) and which provisions *inter alia* contain section 267. The marginal note to this section says “notice of demand

may be served after arrears due". It is in these circumstances that this provision and all subsequent sections would have to be complied with before the apprehended measures are taken. Thus, there cannot be any recovery by coercive means except by this due process of law.

3. The writ petition, therefore, is disposed of by accepting the statements made in the affidavit in reply as undertakings given to this court. All contentions of the petitioner on the jurisdiction, competence of the authorities as also the merits of the recovery proceedings are kept open.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)