

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

WRIT PETITION NO. 567 OF 2018

Jayantilal K. Bhagat & Anr.

.. Petitioners

v/s.

The Tax Recovery Officer-21,
Mumbai & Ors.

.. Respondents

Mr. Nishant Thakkar a/w Mr. Sachin Pawar for the petitioners
Mr. Ashok Kotangle, Mr. A.K. Saxena for the respondents
Ms. Tanuja Bhagat petitioner no.2 present

**CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.**

DATED : 28th FEBRUARY, 2018.

PC.

1. The primary challenge in this petition is to holding of auction by the respondent – Revenue of the attached properties (for non-payment of tax) on 1st March, 2018. This without having disposed of the petitioner's objection to the attachment of properties and auction of the same. In support, our attention is also invited to the Notices dated 16th February, 2018 and 20th February, 2018 issued by the Tax Recovery Officer calling the petitioners for a hearing in respect of the above objection, which were received after the date fixed for the hearing.

2. Mr. Thakkar, learned Counsel appearing for the petitioners on instructions of petitioner no.2 who is present in Court states that the respondent Revenue will pay the entire cost which have been incurred by the respondent Revenue for scheduling the auction on 1st March, 2018.

3. Mr. Kotangle, learned Counsel for the respondent Revenue states that he would communicate the exact quantum of the costs incurred for scheduling the auction on 1st March, 2018 to the petitioners by tomorrow. The petitioners undertake to pay the same by 5th March, 2018.

4. Mr. Kotangle, on instructions, states that the respondent would adjourn the auction of the attached properties for a period of 2 weeks from 1st March, 2018. In the meantime, on instructions, he states that the Tax Recovery Officer would hear the petitioners (either by themselves or through authorized representatives) in respect of the two Notices dated 16th February, 2018 and 20th February, 2018 issued by the Tax Recovery Officer on 1st March, 2018 at 3.00 p.m. Mr. Thakkar, learned Counsel for the petitioner takes notice of the same and states that the petitioners shall appear tomorrow at the scheduled time. The

Tax Recovery Officer shall communicate the order passed consequent to the hearing to the petitioners by 7th March, 2018.

5. We accept the undertaking given by the petitioners to this Court that they will pay the costs and charges incurred by the respondents for scheduling the auction on or before 5th March, 2018 subject to the respondents informing the petitioners of the costs by 1st March, 2018.

6. In view of the above, Mr. Thakkar, does not press this petition and seeks to withdraw. Therefore, we have not examined the merits of the petition or the respondents objections to it.

7. The petition is disposed of as withdrawn. No order as to costs.

(SANDEEP K. SHINDE, J.)

(M.S. SANKLECHA, J.)