

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.669 OF 2018**

Shreyans Tejsingh Baid ..Petitioner.

v.

The Commissioner, MMC & others ..Respondents.

Mr.Shreyans T.Baid, Petitioner in person.

Ms.Pallavi Thakar, for the respondent/MMC.

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

DATE : 17th APRIL, 2018

P.C.

1 Heard the Petitioner appearing in person. By this Petition under Article 226 of the Constitution of India, the Petitioner is seeking a direction to call for the record of water connection No.KWC0291000 allegedly used by the Petitioner and to direct the respondents (the Commissioner of the Mumbai Municipal Corporation and the said Corporation) to issue new bills as per consumption of the Petitioner and after adjusting extra amount charged which is already paid by the Petitioner. There is also a direction sought against the 2nd respondent to issue itemized water bills. The last substantive relief is for considering the grievance of the Petitioner about the said water connection.

2 There are letters annexed to the Petition which show that the 2nd respondent had addressed letters to one Hanutmal Baid in respect of the aforesaid water connection as well as water connection bearing No.KWC 0290007 as both the water connections stood in the name of said Hanutmal Baid. Repeatedly the respondent No.2 called upon him to pay the outstanding bill amount. Exhibit-J is one of the bills issued on 6th January

2018 demanding arrears of Rs.1,65,239/- and current bill amount of Rs.11,989/-. The said bill is in respect of the meter in respect of which relief has been claimed in the petition.

3 There is a reply filed by the other respondent Ramesh Baburao Pisal, Assistant Engineer (Water works) K/West ward. Clause (c) to (e) of paragraph No.5 of the Affidavit read thus :

c] I say that on 16.12.2016, when the staff has visited for inspection, it is noticed that the said bungalow is having two water connection linked to each other. The main water connection (No.KWC0290007) is in the cabin of watchman. It is also seen that on the chamber of the said meter, the stone tile is put up and on the said tile, the material of cooking was put up and hence, the meter reading could not be taken.

I say that the water connection under No.KWC0291000 (K704/115) is installed inside the bathroom of the said bungalow which is ground plus 1st floor. It is also noticed at the time of inspection, the water meter of water connection No.KWC0291000 that as the said bathroom was closed, the meter reading could not be taken. The inspection report dated 16.12.2016, is annexed herewith at Exhibit-B. I say that therefore, the water bills are issued as per Rule-3 of Water Charges Rules.

d] I say that the notice u/s 278 of the MMC Act is also issued under No.AEWW/KW/3364/SR dated 21.12.2016 to the connection holder Shri Hanumant Baid as the Booster Pump is installed without the permission of the Respondent Corporation which has caused disturbed water supply to the aforesaid and neighboring premises. Hereto annexed and marked Exhibit-C is the copy of the notice dated 21.12.2016.

e] I say that these Respondents issued the letter under No.AEWW/KW/3364/SR dt. 21.12.16 to connection holder Shri Hanumant Baid. It is stated therein that the water from the above two water connections was required to be connected to one Water tank. However, at the time of inspection it was seen that another water tank is installed. He was called upon to submit the permission for the second water tank and to put up the water meters at a place from where they are accessible. He was also called upon to pay the outstanding water bill amounting to Rs.1,37,549/-. I say that the notice is received by him on 22.12.2016. Hereto annexed and marked Exhibit-D is the copy of the notice dated 21.12.2016. I say that these conditions are also

on the overleaf page of the water bill. I say that on one hand the Petitioner is complaining for faulty water meter, but since year 2014, he was called upon to pay meter testing, removal and sealing charges of Rs.850/- but he has not deposited the same 9.2.2018. I say that only on 9.2.2018 he has paid the said charges.

4 In clause (g) of paragraph 5 of the said affidavit, it is stated by the Municipal Officer that on the basis of notice dated 3rd February 2018 when the municipal staff visited the site on 8th March 2018 for removal of the water meter subject matter of this petition for testing, the Petitioner did not allow the staff to remove the water meter.

5 In the rejoinder, the Petitioner has not disputed correctness of what is stated in clause (c) of paragraph 5. However, he has claimed that he has nothing to do with the second water connection standing in the same name. He has stated that only the water connection subject matter of this petition belongs to the Petitioner and he is not concerned with the second water connection.

6 Firstly, we may note here that both the water connections do not stand in the name of the Petitioner. Even going by the case made out in the Petition and documents annexed to the Petition, both the water connections stand in the name of one Hanutmal Baid who is admittedly no more. There is some correspondence annexed to the Petition (Exh.D) which records that one Tejsingh Baid had corresponded with the 2nd respondent Municipal Corporation about the meter connection subject matter of this Petition.

7 There are two water connections standing in the name of same person which have been provided in the same property. Whether the Petitioner is using both the water connections or only one connection and what is the water consumption of the Petitioner, are disputed questions of fact. The disputes cannot be decided under writ jurisdiction and in fact more appropriate remedy for the Petitioner will be to file a civil suit. We, therefore,

decline to entertain this Petition. The Petition is disposed of. The remedy of the Petitioner to file a suit is kept open.

8 As the Petitioner has complied with the conditions imposed in the order dated 28th February 2018 and the Petitioner will have to issue statutory notice before filing the suit, we direct that ad-interim granted on 28th February 2018 will continue to operate for a period of 6 weeks from today.

9 We make it clear that the concerned Court shall decide the prayer for ad-interim or interim relief without being influenced by the continuation of ad-interim relief by this Court.

(RIYAZ .I.CHAGLA, J)

(A.S. OKA, J)