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

WRIT PETITION NO. 2978 OF 2017

Shivlila Suresh Patil	}	**Petitioner**
versus		
The State of Maharashtra	}	
and Ors.	}	**Respondents**

Mr. Deepak K. Bapat with Ms. Sonali Bapat for the petitioner.

Mr. Himanshu Takke-AGP for State.

CORAM :- S. C. DHARMADHIKARI &
PRAKASH. D. NAIK, JJ.

DATED :- APRIL 17, 2018

P.C. :-

1. By this petition under Article 226 of the Constitution of India, the petitioner wants to achieve indirectly what he has not been able to achieve directly.

2. The petitioner has said in the petition itself that there is an assessment order, against which, an appeal is preferred by the petitioner. The appeal is pending before the first appellate authority. The petitioner apprehends that if the assessment order is upheld, the appeal is dismissed and the petitioner is visited with tax liability, it is only the petitioner who will have to meet it and the persons, who have been proceeded against and

legitimately for the recovery of the taxes, will avoid the consequences in law.

3. We do not think that at the instance of such parties, we should entertain the petition and issue mandamus allegedly to protect public revenue or the interest of the public exchequer for all we know, this could be a motivated litigation and instituted with a purpose not only to assist the petitioner to avoid the tax liability but also those who will primarily be responsible for the tax. That being the purpose sought to be achieved and our jurisdiction being extraordinary, equitable and discretionary, we refuse to entertain the petition. It is dismissed.

(PRAKASH.D.NAIK, J.) **(S.C.DHARMADHIKARI, J.)**