

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

WRIT PETITION NO.2634 OF 2015

Mittal Tower Premises Cooperative
Society Ltd. and Anr. ... Petitioners
vs.
The Municipal Corporation of
Greater Mumbai and 3 Ors. ... Respondents

Mr. Milind Sathe, Senior counsel a/w Ms. Nirali Chopra i/b
Junnarkar & Associates for the Petitioners.
Mr. A. Y Sakhare, Senior counsel a/w Ms. Pallavi Thakar for
the Respondent-BMC.

CORAM : A.S. OKA & P. N. DESHMUKH, JJ.
DATE : 13th FEBRUARY, 2018

P.C.:

1. Mr. Sathe, the learned senior counsel for the Petitioners states that the Petitioners are not willing to deposit the entire amount payable on the basis of impugned order at Exhibit "V". The impugned order is passed on a complaint filed by the Petitioners pursuant to the assessment notice of property taxes in respect of the years 2008-2009 and 2009-2010.

2. Mr.Sathe, the learned senior counsel for the Petitioners states that the Petitioners are not willing to pay

the entire amount payable as per the impugned order. They are willing to pay the amount of property taxes which is determined for the subsequent years or the previous years.

3. The determination of the rateable value is made by the Investigating officer by arriving at a conclusion regarding the rates. He has arrived at the rates of Rs. 7,150/- per Sq. meter for office units and Rs.11,910/- per Sq. meter for banking business given on leave and license basis. He has come to the conclusion that the said rates arrived at are fair and reasonable.

4. What is the fair and reasonable rate is a matter which can best be decided by the Court of Small Causes before which Court an efficacious remedy of preferring an appeal under section 217 of the Mumbai Municipal Corporation Act, 1888 is available. Both the parties can adduce evidence on the aspect of fair and reasonable rate.

5. Therefore, we decline to entertain this Writ Petition. Accordingly, the writ petition is disposed of. However, the statutory remedy available to the Petitioner is expressly kept open. All contentions of the parties on merits are kept open.

6. On the prayer made by the learned Senior counsel appearing for the Petitioners, we direct that no steps shall be taken for recovery of the amount on the basis of the impugned order at Exh."V" for a period of 8 weeks subject to the condition that the Petitioners shall deposit with the Municipal Corporation municipal taxes for the years 2008-2009 and 2009-2010 as determined for the subsequent year (2010-2011) within a period of 6 weeks from today.

[P. N. DESHMUKH, J.]

[A. S. OKA, J.]