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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 254 OF 2018

Shivam Sundaram Developers and ... Petitioners
and Realtors Private Limited.

vs.

Municipal Corporation of Greater Mumbai and Anr. ... Respondents

Ms. Anita Borkar for the Petitioner.

Mr. Javed Shaikh a/w. Ms. Pooja Yadav for the Respondents.

CORAM : A.K. MENON, J.

DATE : 14th AUGUST, 2018

P. C.

1. The controversy that has given rise to the present writ petition is irregular metering and billing on the consumption of water at the building constructed by the petitioners. After this matter was heard for some time it is pointed out by the counsel for the corporation and as set out in the affidavit in reply of one Shri Ranjitkumar Bhimrao Chavan, the Corporation had made an error in calculation of the amount payable towards water charges due to an incorrect recording of the meter reading in July 2015 resulting in incorrect billing upto July-August, 2017. This incorrect reading led to the petitioner making excess payment of Rs,2,99,554/-.

2. Today the Corporation is willing to give credit for this amount billed in excess by adjusting the said amount against subsequent bills. The Corporation is now billing as per the correct reading of the meter which activity is being undertaken regularly. Meanwhile even after adjustment of the excess money collected, a sum of Rs. 2,35,433/- is due as of July, 2018.

3. On behalf of the petitioner learned Advocate states that after filing of the petition, the petitioners have paid a sum of Rs. 88,685/- towards certain bills raised by the Corporation and a receipt for payment has been issued on 14th June, 2018 (Exhibit-B). She submits that the amount of Rs.2,35,433/- now claimed as due does not take into account the sum of Rs. 88,685/-. Furthermore she claims that the petitioner is entitled to refund of excess amounts paid due to erroneous billing. She states that the petitioner is willing to pay the amounts now demanded without prejudice to the petitioner's right to seek refund if any due.

4. In the circumstances counsel for the Corporation states that due credit for such amount of Rs. 88,685/- will be given forthwith and that the Corporation will accept the balance sum of Rs.1,46,748/- will be paid over by the petitioner without prejudice to the rights and contentions of the petitioner and the corporation. It will be open to the petitioner to make an appropriate representation to the corporation for refund if any due to the petitioner. In the circumstances I pass the following order;

- (i) The petitioner shall without prejudice to its rights and contentions pay over to the respondent Corporation a sum of Rs. 1,46,748/- within a period of four weeks from today.
- (ii) Subject to payment of the aforesaid, the petitioner is at liberty to make appropriate application for refund of such amounts which according to the petitioner has been paid in excess. Such representation will be decided within a period of eight weeks by the Corporation.
- (iii) The designated officer competent to hear such representation shall grant a personal hearing and reasoned order will be passed within a period of four weeks from such hearing.
- (iv) Writ Petition is disposed in the above terms.

(A.K. MENON, J.)

Rajeshwari
Ramesh
Pillai

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Rajeshwari
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