

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CAW NO. 1437/2018 IN WRIT PETITION NO. 2938 OF 2016

(Nav Bharat Media Services thr. its Director Sameer Maheshwari vs. The Nagpur Municipal Corporation, Nagpur thr. its Commissioner)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
M.G. GIRATKAR, JJ.
SEPTEMBER 07, 2018.**

Heard Shri Voditel, learned counsel for the applicant - petitioner and Shri J.B. Kasat, learned counsel for the respondent.

2. The prayer is to lift attachment and to that extent modify order dated 21.08.2017.

3. Before filing of petition, the petitioner had deposited amount of Rs. 25,00,000/- and thereafter amount of Rs.50,00,000/- more has been deposited. Thus, against disputed demand of about Rs.2,26,66,573/-, Corporation has received an amount of Rs.75,00,000/-.

4. The contentions advanced by Shri Voditel, learned counsel mostly demonstrates the technical challenge to recovery as liability is still not crystallized. The respondent demonstrates that it is only on the number of Kiosks and sites (number of add poles) of which the petitioner could take optimum benefit, the demand has been worked out.

5. After considering these facts on 21.08.2017, we

had issued Rule and passed interim orders. We also gave petitioner leave to apply for vacation of interim orders after depositing said amount.

6. After filing of Civil Application No. 1437 of 2018, this Court directed Corporation to place on record other documents which it may have against the petitioner. The Corporation has in relation to the period from 26.09.2002 till 25.09.2003 raised the demand. The original demand is alleged to be Rs.30,11,369/- and out of which only Rs.1,53,075/- are claimed to be paid. The balance amount of Rs.28,58,294/- is, therefore, pressed into service. Interest amount upon it is shown Rs.52,51,536/-. Total amount, therefore, alleged to be due and possible for the 2002-03 transaction is Rs.81,09,830/-.

7. The learned counsel for the petitioner seriously disputes this. He points out that the recovery, if any, cannot be in such mode and manner.

8. As the Corporation has pointed out old arrears and amount outstanding along with old arrears is huge, we are not inclined to lift the order of attachment.

9. Civil Application is accordingly rejected. However, we list writ petition for final hearing in the week commencing from 19.11.2018.

JUDGE

JUDGE

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