

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

WRIT PETITION (L) NO. 881 OF 2019

Mittal Court Premises	}	
Co-operative Society Limited	}	
and Anr.	}	Petitioners
versus		
The Municipal Corporation	}	
of Greater Mumbai and Ors.	}	Respondents

WITH
WRIT PETITION (L) NO. 887 OF 2019

Richa Realtors Private	}	
Limited and Anr.	}	Petitioners
versus		
The Municipal Corporation	}	
of Greater Mumbai	}	Respondent

Mr.R.S.Apte-Senior Advocate with
Mr.P.V.Nichani for the petitioners in
WPL/881/2019.

Mr.Yogendra K. Sharma for the petitioner
in WPL/887/2019.

Ms.Rupali Adhate for respondent nos. 1 to
4 in WPL/881/2019.

Mr.K.H.Mastkar for the respondent in
WPL/887/2019.

Mr.Amit Shastri-AGP for State.

Mr.Sanjay Mahajan-Inspector 'A' Ward,
Assessment Department present.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATE :- MARCH 19, 2019

P.C. :-

1. Mentioned out of turn. It is stated that there is a grave urgency because the water supply to the petitioners' premises would be disconnected for non-payment of property taxes. The taxes are computed by determining a rateable value and that determination is arbitrary and excessive is the complaint.

2. It is not disputed that there is a remedy of appeal before the Chief Judge of the Court of Small Causes, Bombay and that remedy is complete and efficacious. The only reason why such petitions are brought is that the remedy to be availed of requires parties like the petitioners to deposit or produce proof of payment of the amount of disputed taxes and only then the appeal can be entertained. It is to get over such a condition that these writ petitions are brought and parties like the petitioners wait till a drastic or extreme step is taken by the Municipal Corporation. Here, a 48 hours' notice has been given, by which, the Municipal Corporation says that if the taxes are not paid, after the expiry of this period, the water supply to the premises will be disconnected. There is no challenge laid to such a step being taken, but time is sought to avail of the alternate remedy and to comply with the condition imposed by the statute.

3. In the above circumstances, the following order is passed:-

(i) If the petitioners file an appeal within a period of 15 days from today and comply with the conditions imposed by the statute, then, the remedy of appeal be allowed to be availed of.

(ii) For a period of 15 days from today and in order to enable the petitioners to avail of the appellate remedy by approaching the Court of Small Causes, Mumbai, the water supply to the premises shall not be disconnected. In other words, the impugned notices shall not be acted upon for a period of 15 days from today.

(iii) We clarify that we have not expressed any opinion on the merits and we have granted this protection in order to enable the petitioners to file an appeal. Our order shall not be construed as granting any protection to the petitioners.

4. With the aforesaid directions, both the writ petitions are disposed of.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)