

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

WRIT PETITION LD. NO. 3824 OF 2018

Maneesh Pharmaceuticals Limited.

..Petitioner.

Versus

MCGM and Another.

..Respondents.

Mr. E. A. Sasi for the Petitioner.

Ms. K. H. Mastakar for MCGM.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **January 15, 2019.**

P. C. :

1. On 20th December 2018 we passed following order :

1. Grievance raised in the petition is about disconnection of water supply to the Petitioner's unit. Learned counsel for the Respondent-Corporation having taken instructions from the officer concerned, makes a statement that the Petitioner is in arrears of water bills to the tune of Rs.6 lakh. This statement is disputed by the learned counsel for the Petitioner.

2. In the above circumstances, we direct the Petitioner to deposit an amount of Rs. 6 lakh in this Court within the period of two weeks from today and then give intimation thereof to the Respondent-Corporation. It is made clear that the deposit of this amount shall be subject to final outcome of the petition and is without prejudice to the rights and contentions of the respective parties.

3. Once the amount as stated above is deposited by the Petitioner and intimation thereof is given, the Respondent-Corporation shall restore the water supply to the Petitioner within one week.

*4. For further hearing, we defer the hearing on this petition. Adjourned to **7th January 2019.**"*

2. The petition is filed for the following reliefs :

(a) this Hon'ble Court may be pleased to issue a writ of certiorari, mandamus or writ in the nature of certiorari, mandamus or any such other appropriate writ, order of direction to the concerned Respondents to forthwith restore the water connection at the Petitioner's factory situated at Plot No. 29/33, Ancillary Industrial Plots, Gowandi, Mumbai – 400 043, and reinstall proper water meter in the premises of the Petitioners forthwith.

(b) this Hon'ble Court may be further pleased to issue appropriate order and direction to the Respondents to refund 76% of the amount charged in excess in the water charges bill shown at Sr.No.1 to 10 in the statement Exhibit —E hereto in accordance with the test result communicated by the Respondents vide their communication dated 21.01.2016 being Exhibit- B hereto.

(c) Or in the alternative to praeyr clause (b) above, this Hon'ble Court may be pleased to issue appropriate order and directions to the Respondents to refund the excess amount of adjust the bill amount in respect of the bills shown at Sr. No. 1 to 10 in the statement Exhibit- E hereto i.e., after replacement of the faulty meter; taking into account the average water consumption recorded vide the said 10 bills which are prior to replacement of the faulty meter and also taking into account the average water consumption recorded vide 4 bills mentioned at sr. No. 12 to 15 in Statement Exhibit- E hereto and to adjust such excess amount against the future water bills.

(d) this Hon'ble Court may be further pleased to issue appropriate order and directions to the Respondents to waive the interest claimed by the Respondents in respect of the amounts for the bills shown at Sr. No. 1 to 10 in the statement Exhibit-E hereto.

(e).....”

3. It is evident that petition raises several disputed

questions of fact. Last time we entertained the Petitioner as he complained that water supply to his unit is completely disconnected. Now, since water supply is restored on Petitioner's depositing an amount of Rs.6 lakhs in this Court and the faulty water meters have been replaced in February 2016, in our opinion, the Petitioner must avail the remedy of suit.

4. Mr. Sasi, learned counsel for the Petitioner in above circumstances has taken instructions from his client who is present in the Court and seeks leave to withdraw the writ petition with liberty to file civil suit. Leave with liberty as prayed for is granted. Petition is disposed of as withdrawn.

5 It is made clear that this Court has not gone into merits of the matter and all points and contentions of the respective parties are kept open.

6. The Respondent-Corporation is allowed to withdraw the amount of Rs.6 lakhs deposited by the Petitioner in this Court pursuant to the order dated 20th December 2018. This amount, however, would be subject to the final outcome of the suit / proceedings that maybe filed by the Petitioner before the concerned Court / forum.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]