IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4812 OF 2015
(MUNICIPAL COUONCIL, HINGANGHAT...VS.. SHRI VINAY WASTE RECLAMATION PVT. LTD. & ANR.)

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

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Shri M.P.Kariya, Advocate for Petitioner.
Shri M.G.Bhangde, Sr.Advocate a/b. Shri S.N.Tapdia, Adv. for Resp.No.1.
Shri V.P.Maldhure, A.G.P. for Respondent No.2.

CORAM : Z.A.HAQ, J.
DATED : MARCH 07, 2019.

Heard.

2. The assessment of taxes by the petitioner-Municipal Council on buildings and lands was challenged by the respondent No.1 by filing appeal under Section 169(2) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to as "the Act of 1965"). By judgment dated 21st December 2006, the learned Magistrate allowed the appeal, quashed the bill issued by the Municipal Council claiming taxes for the years 1994-95 to 1997-98 and directed the Municipal Council to make fresh assessment according to law and disclose the basis for such assessment. This judgment was challenged by the Municipal Council before the Sessions Court in revision, which is dismissed by the impugned judgment.

3. According to the Municipal Council, while issuing the bill claiming taxes for the years 1994-95 to 1997-98, it had followed the prescribed procedure and undertaken the exercise for calculating the Annual Letting Value or Rateable

Value of the property in question, the measurement of the property was taken and the tax leviable on the property was assessed and bill was issued, however, overlooking these aspects, the subordinate Courts have held that the claim for taxes is without following the prescribed procedure and without any basis. One of the contention on behalf of the Municipal Council is that the assessee had shown wrong area of the property while submitting the details to the Municipal Council and inspection was undertaken and the property was measured and substantive difference was found in the actual area of the property and the area shown by the assessee. According to the Municipal Council, the tax was assessed on the rateable value of the property considering the measurement report of the official deputed for spot inspection of the property.

4. The learned Senior Advocate appearing for the respondent No.1 has submitted that the learned Magistrate has directed the Municipal Council to make fresh assessment according to law and disclose the basis for such assessment and while complying with the directions given by the learned Magistrate, the Municipal Council can have the property inspected and the measurement can be taken with due notice to the respondent No.1.

The learned Senior Advocate appearing for the respondent No.1 has submitted that the measurement will have to be taken by any official of the Municipal Council and it is not permissible by any private agency. The learned Advocate for the Municipal Council has submitted that the measurement of the property will be taken by any official of the Municipal Council.

5. In view of the above submissions, I do not find any infirmity in the impugned order. Similarly, the order passed by the learned Sessions Judge, dismissing the revision filed by the Municipal Council, cannot be faulted with. The learned Magistrate has directed the Municipal Council to make fresh assessment in accordance with law and disclose the basis for such assessment. If the Municipal Council intends to undertake the measurement of the property, it can do so through its official with due notice to the respondent No.1.

6. With the above clarification, the writ petition is **disposed**. In the circumstances, the parties to bear their own costs.

JUDGE

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