

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No.3422 OF 2021

Kamal Kisan Kadam

...Petitioner

Vs.

The State of Maharashtra

Through Secretary,

Urban Development and Ors.

...Respondents

Mr. A.M. Kulkarni a/w. Sarthak S. Diwan, Advocate for Petitioner

Ms. R.M. Shinde, AGP for State-Respondent No.1

Mr. Abhijit P. Kulkarni, Advocate for Respondent Nos. 2 to 4

CORAM : A. A. SAYED &
S. G. DIGE, JJ

DATED : 20TH OCTOBER, 2021

P.C.:

1. The Petition is filed seeking following reliefs:

“(b) *to hold and declare that the Petitioner is not liable to pay the property tax arrears and penalty as stated in the impugned communication dated 06.01.2020 issued by the Pune Municipal Corporation.*

(c) *to quash and set aside the impugned communication dated 06.01.2020 bearing Bill No. 267A-C153 issued by the Pune Municipal Corporation, entirely with costs.”*

2. On 29th July, 2021, we have passed the following order:

“P.C.:

Learned Counsel for the Respondent-Corporation to take instructions, whether the Respondent-Corporation would issue a show cause notice and hear the Petitioner and take a fresh decision on the penalty which is levied. So far as demand in respect of property tax are concerned, we are of the prima-facie view that the Petitioner has a remedy of an Appeal.”

3. The issues raised in the Petitioners are squarely covered by the judgment of the Division Bench of this Court in **Viom Infra Networks Maharashtra Ltd. Vs. Kalyan Dombivli Municipal Corporation and Others, 2013 SCC Online Bom 1882**. Hence, we pass the following order:

O R D E R

- (i) As far as the demand for property is concerned, we decline to interfere in writ jurisdiction. However, the remedy of preferring an Appeal under Section 406 of the Maharashtra Municipal Corporation Act, 1949 (MMC Act) is expressly kept open;
- (ii) We make it clear that in the event the Appeals are preferred by the Petitioners, in view of Section 435 of the MMC Act, the concerned Appellate Authority

shall consider the fact that this Writ Petition was pending in this Court;

- (iii) We set aside the demands made by the Respondent - Corporation as far as the penalty under Section 267A of the MMC Act is concerned with liberty to the Respondent-Corporation to take recourse to the provisions of law for imposing penalty after following the principles of natural justice.

4. The Writ Petition to stand disposed of in the aforesaid terms.

(S. G. DIGE, J.)

(A. A. SAYED, J.)