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

WRIT PETITION NO. 1341 OF 2018
WITH
INTERIM APPLICATION (L) NO. 6179 OF 2021

Shanbag Storage and Services }
Pvt. Ltd. } Petitioner
Versus
The Municipal Corporation of }
Greater Bombay and Ors. }
Respondents

Mr.Kevic Setalvad-Senior Advocate with Mr.Anupam Surve i/b. Mr.Ashok Singh for the petitioner.

Mr.Bhavik Manek with Ms.Oorja Dhond i/b. Mr.Aruna K. Savla for MCGM.

Ms.Uma Palsuledesai-AGP with Mr.L.T.Satlekar-AgP for State.

Mr.Suhas Dhole-Assistant Assessor and Collector, M/East Ward of MCGM present.

CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.

DATE :- MARCH 9, 2021

PC :-

1. This writ petition assails the demand of property taxes as raised by the respondent-Municipal Corporation. The prayers in the writ petition are required to be noted. They read as under:

"a. that this Hon'ble Court may be pleased to issue writ of certiorari or any other appropriate writ or order quashing and setting aside the demand of property tax for Rs.1,30,62,879/- made vide Demand Notice No. A.A.&C./ME/GEN/05/2111/2017-18 dated 13th December, 2017 (Ex-K), demand Notice No. AAC/ME/2979/2017-18 dated 21.02.2018 (Ex-N) and vide Demand Notice No. AAC/ME/3020/2017-18 dated 07.03.2018 (Ex-P), Demand Notice dated 16.03.2018 (Ex-R) issued by the Respondent No.3 to the Petitioner;

b. that this Hon'ble Court may be pleased to issue writ of mandamus or any other appropriate writ or order directing the Respondent No.4 to either release the refund for an amount of Rs.80,11,184/- accrued towards excess payment of lease charges with respect to the said plots due to no change of land usage from warehousing to proposed new industrial activity as per letter dated 25.10.2004, 03.05.2012, 04.03.2015, 28.07.2016 or to adjust the said amount of Rs.80,11,184/- against the appropriate property tax dues as requested vide letter dated 16th August, 2017, 12th March, 2018;

c. that this Hon'ble Court may be pleased to issue writ of mandamus or any other appropriate writ or order directing the Respondents not to take coercive action in pursuant to demand notice dated 13th December, 2017 (Ex-K), 21st February, 2018 (Ex-N), 7th March, 2018 (Ex-P) and 16th March, 2018 (Ex-R) issued by the Respondent No.3.

d. that this Hon'ble Court may be pleased to issue writ of mandamus or any other appropriate writ or order directing the Respondents to assess and calculate property tax of the said premises by granting benefit as per order dated 24th February 2014 passed by Hon'ble High Court of Judicature at Bombay in Writ Petition No.2529 of 2013."

2. From a perusal of the prayers, it appears that the cause being pursued in the petition is in regard to the demand for property taxes which were raised by the Municipal Corporation of Greater Mumbai (MCGM) in December, 2017 and thereafter in February, 2018.

3. The petition was circulated seeking urgent orders, on an apprehension that the water connection provided by the MCGM at the petitioner’s premises, would be disconnected by the MCGM for non-payment of the property taxes.

4. We have accordingly, heard the learned counsel for the parties on the earlier occasion and even today. Mr.Setalvad, learned senior counsel for the petitioner does not dispute that the property taxes have remained outstanding. He would, however, submit that the quantum of the taxes as demanded are not what are agreeable to the petitioner. In our opinion, if that be the case, the petitioner would be required to adopt appropriate alternate remedy available to the petitioner in law, to dispute the demand of the property taxes as raised by the MCGM.

5. We have been shown a computation of property taxes as annexed to the communication dated 18th February 2021 (Exhibit – ‘A’) addressed by the MCGM to the petitioner, whereby, the total outstanding amount is shown to be an amount of Rs.1,46,89,877/-. The penultimate column titled as “Balance Amount Payable as per direction delivered in W.P.no. 2592 of 2013”, shows an amount of Rs.1,08, 90,414/- as due and payable by the petitioner.

6. Mr.Setalvad, learned Senior Counsel for the petitioner, in the present circumstances and apprehending coercive action to be taken by the MCGM, on instructions, submits that his client is willing to deposit with the MCGM an amount of Rs.1,08,90,414/-, on or before 22nd March 2021. This amount, according to the MCGM, is the undisputed amount to be paid by the petitioner.

7. The suggestion, as made by Mr.Setalvad is acceptable to the learned counsel for the MCGM. He, however, would submit that till such amount is deposited with the MCGM, the attachment on the property of the petitioner shall continue to operate. He also states that till the time the amount is deposited with the MCGM, the MCGM shall not take any coercive action against the petitioner. Statement is accepted.

8. In this view of the matter, we propose to dispose of the writ petition by permitting the petitioner to adopt appropriate statutory remedy to assail the quantum of the disputed property taxes namely an amount of Rs.37,99,463/- (i.e. Rs.1,46,89,877 – 1,08,90,414/-). All contentions of the parties in that regard are expressly kept open.

9. The petitioner shall place on record of the petition an undertaking that it shall deposit the agreed amount with the MCGM on or before 22nd March 2021. The undertaking shall also state that the balance amount of property taxes shall be paid by the petitioner as and when demanded along with interest, if at all payable. Copy of the said undertaking shall be forwarded by the advocate for the petitioner to the learned advocate for the MCGM.

10. The learned Counsel for the MCGM makes a statement that the petitioner’s contention for adjustment of the lease rentals, which is dealt with by the Estate Department, is not in any manner connected with the issue of the property taxes and the subject matter of the demand for property taxes.

Thus in regard to the issue of lease rentals, if any, the petitioner is at liberty to resort to an appropriate remedy as may be permissible to it, in law.

11. Disposed of in the above terms. No costs.

12. In the light of the disposal of the writ petition, the interim application does not survive and stands disposed of as such.

Jayant V. Salunke

Digitally signed by Jayant V. Salunke
Date: 2021.03.10 11:04:35 +0530

(G. S. KULKARNI, J.) **(CHIEF JUSTICE)**