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

WRIT PETITION NO. 546 OF 2018
WITH
INTERIM APPLICATION NO. 1 OF 2020
IN
WRIT PETITION NO. 546 OF 2018
A/W.
NOTICE OF MOTION NO. 608 OF 2017
IN
WRIT PETITION NO. 546 OF 2018

Kotia Nirman Cooperative Commercial Premises Society Ltd. ... **Applicant/ Petitioner**

vs.

Municipal Corporation of Greater Bombay & Ors. ... **Respondents**

Mr. Aseem Naphade a/w. Mr. Ajay Panicker i/b. Ajay Law Associates for the petitioner/applicant.
Ms. Oorja Dhond i/b. Ms. Aruna K. Savla for the respondent-MCGM.
Mr. Abhishek Bhat i/b. S.K. Legal Associates LLP for respondent no. 3.
Mr. Mayur Khandeparkar a/w. Mr. Umesh Tawari i/b. M/s. S. Ashwinikumar & Co. for respondent no. 4.

CORAM :- **DIPANKAR DATTA, CJ &**
G. S. KULKARNI, J.
DATE :- **MARCH 16, 2021**

PC :

1. The issues as raised in the present petition revolve around the dues of property taxes and the action taken by the municipal corporation to disconnect the water supply of the petitioner-society. Having heard the learned counsel for the parties on such issues, the private parties to the petition have agreed for an arrangement by which the Municipal Corporation can undertake an exercise to issue individual

bills to the unit holders so that the liability towards property tax in respect of each of the unit can be ascertained and such defaulting members can be called upon to pay the arrears of property taxes. Learned counsel for the municipal corporation has taken instructions and states that Mr. Jayant B. Naik, Assistant Assessor and Collector, K/West Ward shall be the officer, who would undertake the exercise of ascertaining the dues of property tax and issuance of the bills.

2. In the above circumstances, the petition is disposed of in terms of the following order:

O R D E R

a. Mr. Jayant B.Naik, Assistant Assessor & Collector, K-West Ward, is directed to ascertain and fix liability of the outstanding amount of property taxes in relation to unit wise tax liability submitted by the Municipal Corporation at Exhibit 7 of their Affidavit in Reply dated 21st July,2020, filed in the above Interim Application.

b. The Petitioner Society and Respondent Nos.3 and 4 shall submit proof of payments of the Property taxes in relation to their respective units on and from the period of 1st April, 2008 to 31st March, 2019. As far as property tax for the period of 2008 to 2010 is concerned, Respondent nos.3 and 4 will submit proofs of payments collected/made from/ by the respective unit purchasers/ holders/ occupants towards the property taxes which was deposited with the Respondent No.1 for the relevant time period. Petitioners' members will submit proof of payment of property Tax paid to the Developers i.e. Respondent Nos.3 and 4, hereto. And these payments will be considered by Chartered Accountant for ascertaining the unitwise liability.

c. In the course of verification, Mr. Jayant B. Naik will be entitled to call for such further documents as may be required from any of the parties including MCGM.

d. All parties including MCGM agreed and undertake to co-operate in process of verification, which Mr. Jayant B. Naik shall endeavor to complete in 6 weeks from today.

e. After ascertaining the individual Property tax liability against each unit, MCGM shall issue individual property tax Bills for each unit, which shall be paid by the respective assessees as may be specified in the bill, without prejudice to the rights and contentions of the parties, for restoration of the water supply. In the event there is a default on the part of the unitholder/assessee in making payment of the respective dues, the Municipal Corporation shall be free to adopt appropriate proceedings as per law for recovery of the arrears of taxes against such defaulters.

f. Petitioners will make representation to MCGM in respect of levy of sewerage tax and penalty. MCGM shall decide such representation within 6 weeks after hearing the parties.

g. All other contentions on other issues are expressly kept open.

h. Disposed of in the above terms.

3. It is clarified that the order is passed in the peculiar facts and circumstances of the case and shall not be treated as precedent for any purposes.

4. Interim Application would also not survive and the same is accordingly disposed of.

5. Notice of Motion is also accordingly disposed of.

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