

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

WRIT PETITION NO. 7210/2018

**Nagpur Municipal Corporation and others ...Versus... Jayantrao Marotrao
Dhanwatay**

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

Court's or Judge's orders

Mr. J.B.Kasat Advocate for petitioner
None for Respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/12/2021

Heard Mr. Kasat, learned counsel for the petitioner. None for the respondent though served.

The petition challenges the impugned judgment dated 01.09.2017, by which relying upon the judgment in **Kalyan Municipal Council vrs. Usha Paper Product, 1988 (3) SCC 306**, which holds that the Municipal Council is not entitled to assess the property with retrospective effect, the order dated 25.03.2014 passed by the Objection Officer, which assesses the tax upon the property in question, has been set aside. Mr. Kasat, learned counsel for the petitioner contends that the impugned judgment does not take into consideration, the amendment to the Maharashtra Municipal Council Act by way of Section 150-A, which permits assessment of escaped liability, which is with effect from 10.3.2011, and since the Maharashtra Municipal Council Act came into force in the entire State on 05.12.12, the said provision

was applicable in the present case and therefore, the impugned judgment cannot be sustained.

A perusal of the impugned judgment indicates that the only ground on which the decision of the Objection Officer has been set aside is the judgment in **Kalyan Municipal Council** (supra) and the provisions of Section 150-A of the Maharashtra Municipal Council Act, which permits the Corporation to assess the liability for escaped assessment for a past period of six years, remained unnoticed, considering which the impugned judgment cannot be sustained. The same is hereby quashed and set aside, and the matter is remanded back to the District Judge-15 & A.S.J., Nagpur, to decide the Misc. Civil Appeal No. 110/2014, in consonance with the provisions of Section 150-A of the Maharashtra Municipal Council Act.

Writ petition is disposed of in above terms.

JUDGE

rvjalit