

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 803 OF 2020

Tata Communications Payment Solutions Ltd.

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

Mr. Shreyas Shrivastava with Mr. Rishi Kapoor, Mr. Chirag Hathi Ramani
i/b Harshal Damania for Petitioner.

Mr. Abhijit M. Adagule for Respondent No.1- Kolhapur Municipal
Corporation.

Mr. Y.D. Patil, AGP for State.

**CORAM : G.S. KULKARNI &
ABHAY AHUJA, JJ.**

DATE : APRIL 10, 2023

P.C.:

1. Learned Counsel for the Municipal Corporation makes a statement that the entire dues of the property tax have been cleared by the owners- Respondents No. 2 and 3. In this view of the matter, he state that the ATM machines of the Petitioner which have remained in the sealed premises can be released in favour of the Petitioner on a mutually agreed date. We accept the statement as made on behalf of the Municipal Corporation.

2. However, before parting, we would be failing in our duty, if we do not observe that in so far as detaining the ATM machines of the Petitioner by the Respondent Corporation was concerned, in our opinion, the action on the part of Municipal Corporation was totally high handed. The concerned officers of the Municipal Corporation before taking such action in respect of movable property of a third party

did not not examine the leave and license agreement. We cannot accept that the Municipal Corporation would have any authority to keep detained the equipments of the Petitioner who was merely a licensee of the premises. Also under the leave and license agreement, the liability to pay Municipal taxes and all other Government outgoings was that of the owner. The concerned officer of the Municipal Corporation without examining the representation of the Petitioner as also the terms and conditions of the leave and license agreement, continued to detain the said equipments of the Petitioner. We do not approve of such action on the part of the Kolhapur Municipal Corporation. We would request the Commissioner to look in to such issues so that such instances do not take place in future.

3. Accepting the statement as made on behalf of the Petitioner as resolved in paragraph (1) above, we dispose of the Petition, however subject to above observations. No cost.

4. Let appropriate action in regard to the release of ATM machines take place within one week from today.

5. Parties to act upon an authenticated copy of the order.

[ABHAY AHUJA, J.]

[G.S. KULKARNI, J.]