

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2247 OF 2023

Laxman Ruchanmal Wadhwa and Ors. ..Petitioners

V/s.

Ambarnath Municipal Council and Ors. ..Respondents

Ms. Minal Chandnani i/b Jaiwant Chandnani Associates a/w Mr. Bhavesh Sawant and Zoheb Merchant for the Petitioners.

Mr. A.S. Rao for the Respondent Nos. 1 and 2/Corporation.

Mrs. M.S. Bane, AGP for the Respondent Nos. 3 to 5/State.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 21st FEBRUARY 2023

P.C.

1. Leave to amend to implead Mr. Dhanumal Salamat Ray as Petitioner No.42 is granted. Vakalatnama shall be filed for Mr. Dhanumal Salamat Ray in favour of the learned Advocate on record within two weeks from today. Leave to amend is also granted to correct the name of the Petitioner No.19 as “Mr.Damodar Badalani”.

2. Amendment to be carried out forthwith. Printing is dispensed with.

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3. Rule. Mr. Rao, learned Counsel for the Respondent Nos. 1 and 2 waives service. Mrs. Bane, learned AGP waives service for Respondent Nos. 3 to 5. Rule is made returnable forthwith.

4. By this petition filed under Article 226, the Petitioners seek a writ of certiorari thereby calling for records and proceedings in respect of the notices dated 01.02.2023 received by the Petitioner on 13.02.2023 in respect of the warrant of attachment and in respect of rent bills raised by the Respondent Nos. 1 and 2.

5. It is the case of the Petitioners that the Petitioners are tenants in respect of the various shops given on lease by the Respondent Nos. 1 and 2. According to the Petitioners, Respondent Nos. 1 and 2 have increased the rent exorbitantly and have not reduced the rental amount though various representations were made. Ms. Chandnani, learned counsel for the Petitioners states that out of 41 Petitioners, Petitioner Nos.19 and 29 have already preferred separate appeals before the Commissioner (Delegated Powers of Secretary) Konkan Bhavan annexed at page 175 of the Writ Petition which according to the Petitioners is filed in compliance with the order annexed at Exh. N to the petition. It is submitted that these two Petitioners have already deposited 50% of the differential amount with the Respondent No.1 Council. She submitted that in addition to these two Petitioners Mr. Dhanumal Salamat Ray, who is tenant in respect of Shop No.36 has also filed a separate appeal before

the same Authority and has deposited 50% of differential amount. Statement is accepted.

6. Insofar as other Petitioners are concerned, at the request of the learned counsel for the Petitioners, we grant two weeks' time to the Petitioners to file appeals against the impugned notices before the same Authority. Those Petitioners to deposit 50% of the differential amount simultaneously and shall inform the Respondent No.1 about filing of appeal and deposit of amount. It is made clear that in respect of Petitioner Nos. 19 and 29 and Mr. Dhanumal Ray, who has already filed an Appeal, no coercive steps shall be taken by Respondent Nos. 1 and 2 for enforcing the impugned notices mentioned in prayer clause (a) of the petition and during the pendency of those appeals before the Appellate Authority.

7. Insofar as other Petitioners, who are granted two weeks' time to file appeals before the Appellate Authority are concerned, no coercive steps shall be taken by the Respondents for a period of three weeks from today for enforcing the notices dated 01.02.2023. It is made clear that if the appeals are not filed within two weeks along with 50% deposit of differential amount, the Respondents would be at liberty to proceed further to enforce the notices dated 01.02.2023.

8. Insofar as the appeals filed by the Petitioner Nos. 19 and 29 and Mr. Danumal Salamat Ray are concerned, the Appellate Authority shall dispose of the appeals within six months from the date of communication of this order. If the appeals are filed by the rest of the Petitioners within the time prescribed, the Respondent No.3 shall decide those appeals within six months from the date of filing of those appeals provided 50% of differential amount is deposited by them.

9. If the amount is deposited within the time prescribed and the appeals are filed, during the pendency of the appeals, no coercive steps shall be taken by the Respondent Nos. 1 and 2 also against those Petitioners.

10. The order that would be passed by the Appellate Authority shall be communicated to all the Petitioner within one week from the date of the passing of such order. If the orders are adverse against the Petitioners, no coercive steps shall be taken for a period of two weeks from the date of communication of the orders.

11. It is made clear that this Court has not expressed any views on the merits of the appeals already preferred by three Petitioners and also the appeals that would be preferred, if any, by the other Petitioners.

12. All contentions of the parties are kept open.

13. Writ Petition is disposed of accordingly. Rule is made absolute. No order as to costs.

14. Parties to act on authenticated copy of this order.

15. At this stage, the learned counsel for the Petitioners states that some of the Petitioners have already deposited certain amount in respect of which no credit is given by Respondent No.1. The Petitioners are directed to produce the receipt acknowledging the payment of such deposit in respect of which credit is not given by Respondent No.1 within one week from today.

16. Respondent No.1 to verify the factum of deposit and communicate the final amount due and payable according to the Respondent Nos. 1 and 2 to those Petitioners within three days thereafter.

M.M.SATHAYE, J.

R.D.DHANUKA, J.