



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9241 OF 2022

Bhavan Auto Pureinfra Private Limited

....Petitioner

V/s.

Tahsildar & Executive Magistrate & Ors.

....Respondents

Mr. Omprakash Parihar, for Petitioner.

Ms. K. N. Solunke, AGP, for Respondents-State.

Mr Tejesh Dane, for Respondent No.3.

Ms. P. M. Bhansali, for Respondent No.4-CIDCO.

CORAM : K. R. SHRIRAM &

Dr N K Gokhale, JJ.

DATED : 24th AUGUST 2023

PC. :

1 The Petitioner impugns an order dated 30th December 2021 and demand notice dated 26th April 2022 issued by Respondent No.1. Various grounds have been raised in the Petition. On facts, there is a specific averment in the Petition that before the order dated 30th December 2021 was issued, Petitioner has not been served with any notice calling upon to show cause why penalty cannot be levied on petitioner. It is also alleged in the Petition that even impugned notice dated 26th April 2022 was served only on 24th June 2022 at which time petitioner applied for certified copy of entire papers and proceedings.

2 Respondent No.1 has filed affidavit in reply dated 22nd September 2022 in which Petitioner's averments that no notice was served

has not been specifically denied. Respondent No.1 has stated that a notice dated 21st January 2019 along with papers and details were been made available to Petitioner, but there is no evidence to that effect. In the circumstances, we hereby quash and set aside the order dated 30th December 2021 and consequently, the demand notice dated 26th April 2022.

3 Matter is remanded to Respondent No.1 for *de novo* hearing. Mr. Parihar states that he has received a copy of the notice from the file of Respondent No.1 and, therefore, Petitioner will file reply to the show cause notice dated 21st January 2019. Reply to be filed within two weeks. Respondent No.1 shall thereafter gave a personal hearing to Petitioner, notice whereof shall be communicated at least five working days in advance. Within eight weeks from today, Respondent No.1 shall dispose the show cause notice dated 21st January 2019 with reasoned order dealing with all submissions of Petitioner.

4 Petition disposed. We clarify that we have not made any observations on the merits of the matter.

(Dr N K Gokhale, J.)

(K. R. SHRIRAM, J.)