

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

WRIT PETITION NO.8645 OF 2015

ALONG WITH

CIVIL APPLICATION NO.3378 OF 2015

Surya Publicity, Pune

.. Petitioner-Applicant

Vs.

1. Pune Municipal Corporation, Pune

2. Deputy Commissioner,

License and Sky Sign Department,

Pune Municipal Corporation, Pune

.. Respondents

ALONG WITH

INTERIM APPLICATION NO.13019 OF 2023

Pune Municipal Corporation, Pune

.. Applicant-Org. Resp. No.1

ALONG WITH

CIVIL APPLICATION NO.1837 OF 2017

Vishal Anantrao Mate

.. Applicant-Intervener

Mr. Harshad Inamdar for the Petitioner and Applicant in IA/3378/2015.

Mr. Abhijit P. Kulkarni, with Ms. Sweta Shah, for the Applicant in IA/13019/2023 and for Respondent Nos.1 and 2 in WP/8645/2015.

Mr. A.A. Alaspurkar, AGP for the Respondent-State.

Mr. B.D. Joshi for the Applicant in CAW/1837/2017.

CORAM : SUNIL B. SHUKRE & RAJESH S. PATIL, JJ

DATE : 20TH JULY, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. RULE. Rule is made returnable forthwith. Heard finally, by consent of learned counsel for the respective parties.

2. There is no dispute about the fact that after filing of the application for grant of permission to put up the advertisement in the nature of sky-signs, twelve in number in all, on 16th May 2013, the respondent-Municipal Corporation did not communicate its decision on the application of the petitioner within stipulated period of forty-five days, as required under Rule 4(6) of the Bombay Provincial Municipal Corporations (Control of Advertisement and Hoarding) Rule, 2003, (***"Rule 2003"**, for short*), and, therefore, in terms of this very rule, the permission is deemed to have been granted.

3. When the permission is deemed to have been granted, the agency or the advertiser is required to follow what is contained in sub-rule (7) of Rule 4 of Rule 2003. Sub-rule (7) of Rule 4 requires the agency to pay the rent, or, as the case may be, the fees, or, both. It also lays down that if the agency fails to pay the rent and/or, as the case may be, the fees, the permission shall stand cancelled after the expiry of the period of fifteen days.

4. In the present case, in terms of the directions issued by this court on 28th August 2015, the petitioner has indeed deposited the entire license fee, which was payable by the petitioner to the respondent-Municipal Corporation as of 28th August 2015, but, the matter does not end here. After 28th August 2015, there is a further liability fastened upon the petitioner to pay the rent, as required under sub-rule (7) of Rule 4 of Rule 2003. According to learned

counsel for the respondent-Municipal Corporation, a demand in this regard has been raised upon the petitioner and it is to the tune of Rs.5,81,34,307/- and till date, this demand has not been fulfilled by the petitioner. The learned counsel for the petitioner submits that it is an unreasonable demand inasmuch as no details of the calculations made by the respondent-Municipal Corporation to arrive at such a figure have been provided by the Municipal Corporation to the petitioner. But, we may say it here that, in this petition, no dispute in this regard has been raised and the petition is based upon the right accruing to the petitioner in terms of the deeming provision made in sub-rule (6) of Rule 4 of Rule 2003 and what follows thereafter. We have already noted that the benefit of this deeming provision has already accrued to the petitioner and, therefore, now it is for the petitioner to comply with the further requirements of these rules, particularly those of sub-rule (7) of Rule 4 of Rule 2003. If the petitioner does not wish to comply with these requirements and wishes to dispute even the demand of the rent, probably the petitioner would have to take recourse to appropriate remedy as may be available in law. But, having regard to the basis of this petition, we are of the opinion that the petitioner, as of now, would have to comply with the demand so raised upon him by the respondent-Municipal Corporation and if he does not do so, he must suffer the consequences referred to in sub-rule (7) of Rule 4 of Rule 2003.

5. In this view of the matter, we direct the petitioner to deposit the amount of Rs.5,81,34,307/- with the respondent-Municipal Corporation within a

period of fifteen days, as stipulated under Rule 4(7) of Rule 2003, failing which the deemed permission granted to the petitioner shall stand cancelled. We make it clear here that the effect of the deemed permission, as per Rule 2003 being for a period of only one year, the petitioner would have to make fresh application for grant of further permission for erecting the sky-signs in accordance with law.

6. The petition is disposed of. Rule is discharged.

7. All pending interim application are disposed of in terms of this final order.

[RAJESH S. PATIL, J.]

[SUNIL B. SHUKRE, J.]