IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

CIVIL APPLICATION (o) NO. 366 OF 2023 IN
PUBLIC INTEREST LITIGATION NO. 21 OF 2019

Prabhakar Ganbaji Kale
vs.
The State of Maharashtra Secretary, Municipal Administration, and others.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Shri R.L.Khapre, Senior Advocate with Shri V.A. Lohia, Advocate for petitioner.
Shri N.R.Patil, Assistant Government Pleader for respondent nos. 1 to 3 and 8.
Shri M.I.Dhatrak, Advocate for respondent no.4.
Shri Kuldeep P. Mahalle, Advocate for respondent no.5.
Shri Arun Patil, Advocate respondent no.6
Shri D.M.Kale, Advocate for respondent no. 10.

CORAM :- A.S.CHANDURKAR AND M. W. CHANDWANI, JJ.
DATE :- 4th MAY, 2023

Heard.

2. By this Civil Application the petitioner seeks a stay to be granted to the recovery of property tax pursuant to assessment orders that have been passed by the Municipal Council, Warud, pursuant to which demand has been raised from various citizens residing within the limits of the Municipal Council.

3. According to the learned Senior Advocate for the petitioner the entire exercise of assessment of property tax has been undertaken in a manner contrary to law. The work of assessment has been undertaken by a private contractor despite the fact that the said issue is pending before the Hon'ble Supreme Court. It is urged that there are serious malafides on the part of the Municipal Council in appointing a private contractor to undertake assessment. In any event it is urged that the enhancement in the property tax is unjustified and without there being any material to support such assessment. Hence it is prayed that the recovery of property tax be stayed during the pendency of the

proceedings.

4. The learned counsel for the Municipal Council has opposed the prayer made in the Civil Application. It is submitted that in Public Interest Litigation recovery of property tax as a general direction cannot be stayed. The Administration of the Municipal Council depends on the revenue generated through collection of property tax. It is further submitted that the assessment undertaken is in accordance with law and an aggrieved tax payer can always challenge the same in accordance with law.

5. We find that the present proceedings have been filed by a single individual in the public interest. The challenge raised is to the undertaking of assessment by the Municipal Council through a private agency. The validity of the entire assessment carried out on that basis is a matter to be decided finally. At this stage, we find that the work of assessment having been completed and recovery being sought on that basis, a statutory remedy under the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 is available to an aggrieved tax payer. Recovery of property tax in its entirety cannot be stayed in such manner as that would adversely affect the functioning of the Municipal Council.

6. Hence while refusing to grant prayer made in the Civil Application, it is clarified that a tax payer aggrieved by collection of property tax is free to challenge the same by invoking the statutory remedy in accordance with law.

7. The Civil Application is thus rejected.

(M. W. CHANDWANI, J.) **(A.S.CHANDURKAR, J.)**

Andurkar.