



(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

920 WRIT PETITION NO. 10100 OF 2024

SURYYABEE SAYYED NAJIR AND ANOTHER

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS**

....

Mr A. L. Kanade, Advocate for Petitioners

Mr N. D. Batule, A.G.P. for Respondent No.1

Mr S. S. Tope, Advocate for Respondent Nos.2 to 4

CORAM : RAVINDRA V. GHUGE

AND

Y. G. KHOBRAGADE, JJ.

DATE : 20th September, 2024

PER COURT:

1. On 18/09/2024, this Court was about to dismiss this Writ Petition, for obvious reasons, considering the cause of action. The learned Advocate for the Petitioners made a specific statement that the dues along with the penalty component would be deposited in the Registry of this Court before the next date. This statement was recorded in our order and this matter was kept today. We are informed today that the Petitioners have not deposited the said amount.

2. The Petitioners have put forth prayer clauses (B), (C) and (D), which read as under :-

“B] The impugned notices dated 17.10.2023 & 06.12.2023 issued by Assistant Commissioner, Zone No.6, Municipal Corporation Chhatrapati Sambhajinagar, in the name of petitioner for confiscation of immovable property i.e. plot No.2, From Gut no. 410 situated at Chikalthana, Tq. & Dist. Chhatrapati Sambhajinagar, under Chapter -8 Taxation Rule-44, 45 & 46 of Scheduled-D of the Maharashtra Municipal Corporation Act, 1949, may kindly be quashed and set aside.

C] By issuing writ of mandamus or any other writ, order or direction like in the nature of writ of mandamus, directing the respondents for levying regular tax by excluding penalty tax in respect of Plot No. 2 from Gut No. 410 i.e. computational Asset bearing No. 0033867 of the petitioners.

D] Pending hearing and final disposal of this writ petition the execution and implementation of the notices dated 17.10.2023 & 06.12.2023 issued by Assistant Commissioner, Zone No.6, Municipal Corporation Chhatrapati Sambhajinagar, in the name of petitioner for confiscation of immovable property i.e. plot No.2, From Gut no. 410 situated at Chikalthana, Tq. & Dist. Chhatrapati Sambhajinagar, under Chapter 8 Taxation Rule-44, 45 & 46 of Scheduled-D of the Maharashtra Municipal Corporation Act, 1949, may kindly be stayed.”

(3)

3. The learned Advocate for the Respondent/Municipal Corporation submits that the Petitioners have an efficacious remedy under Section 406 of the Maharashtra Municipal Corporations Act, 1949. The learned Advocate for the Petitioners submits that, the Petitioners are willing to deposit Rs.6,00,000/- with the Corporation today, by 3:00 p.m..

4. In view of the above, **this Writ Petition is disposed off**, with liberty to the Petitioners to make a proper application before the Corporation today itself and deposit the money. We make it clear that, we have not expressed any opinion on the merits of the matter, nor would our order amount to starting of limitation or initiation of a new cause of action.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk