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

912 WRIT PETITION NO. 193 OF 2024

**RATAN BALULAL GURJAR
VERSUS
THE MUNICIPAL CORPORATION THROUGH ITS MUNICIPAL
COMMISSIONER AND OTHERS**

....

Mr S. V. Adwant, Advocate for Petitioner;
Mr S. P. Urgunde, Advocate for Respondents

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 24th January, 2024

PER COURT:

1. On 17/01/2024, after briefly hearing the parties, we had passed the following order :-

“1. We have put across to the learned advocate for the Petitioner that if the Petitioner deposits Rupees Twenty Five Lakhs with the Corporation, we would consider grating some protection and permit the Petitioner to approach the Statutory Authority as is the remedy prescribed in the statues.

2. The learned advocate for the Petitioner submits that since the Petitioner is out of the State, this matter may be listed on 24.01.2024.

3. Stand over to 24.01.2024 in the urgent category.”

(2)

2. There is no dispute that the Petitioner has a statutory efficacious remedy under Section 406 of the Maharashtra Municipal Corporation Act, 1949 (the said Act), and all disputed questions can be considered and gone into by considering the entire record of the Corporation.

3. Nevertheless, it is also undisputed that the impugned notice of recovery against the Petitioner is for an amount of Rs.1,03,98,780/-, as on 07/08/2023. Considering the principle laid down in **Shewalkar Developers Limited, Nagpur vs. Rupee Cooperative Bank Limited, Pune and others, 2016 (1) AIR Bom R 636 : 2016 (1) Mh.L.J. 382**, we would have been justified in directing the Petitioner to deposit 50% of the amount with the Corporation, if this Petition was to be entertained by, bypassing the statutory remedy under Section 406 of the said Act. We showed magnanimity by directing the Petitioner to deposit an amount of Rs.25,00,000/-, which is lesser than 25% of the amount. The learned Advocate for the Petitioner submits that, he made every effort to convince the Petitioner. However, the Petitioner is unable to deposit the said amount.

(3)

4. As such, rather than going into the disputed questions, we grant liberty to the Petitioner to avail of the remedy under Section 406 of the said Act, by keeping all the contentions open.

5. **This Writ Petition is, therefore, disposed off.**

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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