

Wadhwa

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 418 OF 2023**

Om Sai Enterprises ...Petitioner
Versus
Vijaykumar Mhashal, Commissioner & Ors ...Respondents

Mr Kishore Patil, i/b Amol Mhatre, for the Petitioner.
Mr RS Apte, Senior Advocate, with NR Bubna, for the Respondents.

**CORAM G.S. Patel &
 Kamal Khata, JJ.
DATED: 13th March 2024**

PC:-

1. Mr Apte states that the disputed amount of Rs 57 lakhs has been deposited in Court, Nazir Branch. It is to be invested in accordance with the usual practices of that office.

2. The Bhiwandi Nizampur City Municipal Corporation (“BNCMC”) has paid whatever according to the BNCMC was in fact payable. Mr Apte maintains that this amount of Rs 57 Lakh was not legitimately due or payable to the Petitioners. Merely because the Petitioners have raised bills does not mean that the Corporation must accept every bill as a tax.

3. We agree.

4. It is now for the Petitioners to adopt such proceedings as they may be advised in a court of competent civil jurisdiction to establish their claim that Rs 57 Lakhs (now secured in this Court) is payable to them. If that proceeding is filed, this amount will stand transferred to the credit of that proceeding.

5. But Mr Apte is correct in saying that this cannot be kept open-ended. The Petitioners must file an appropriate proceeding in a court of competent civil jurisdiction within a period of not more than two months from today. Upon that suit being filed, an application is to be made on the Appellate Side to the Registry for a transfer of the amount deposited and accumulated interest to the civil court in question. Both sides are at liberty to make an application before that court for withdrawal of the deposit on such terms as to security or otherwise as that court may think fit. If that suit is not filed within a period of eight weeks from today, the BNCMC will be entitled to withdraw the entire amount from this Court with all accumulated interest.

6. The Petition is disposed of in these terms.

(Kamal Khata, J)

(G. S. Patel, J)