Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12390 OF 2023

Abhay S Singh & Ors ...Petitioners
Versus
The State of Maharashtra & Ors ...Respondents

Mr Sharan Jagtiani, Senior Advocate, *with Chirag Kamdar & Ms Priya Singh, for the Petitioners.*
Mrs RM Shinde, AGP, *for the Respondent-State.*
Mr MPS Rao, Senior Advocate, *i/b Tanaji Mhatugade, for VVMC.*

CORAM **G.S. Patel &**
Kamal Khata, JJ.
DATED: **15th March 2024**

PC:-

1. Mr Rao on instructions states that there has been an unavoidable delay in the supply of water. On 14th December 2023, Mr Rao's instructions were to indicate a timeline of 15th February 2024 for the supply of water.

2. Engineering concerns have made this impossible. There are significant transmission losses due to leakages. Tests have not yet been successfully completed. Obviously, this is a matter of concern and it is not possible for a Writ Court to brush these concerns aside. Certain hydraulic valves will need to be attended to. Then tests will have to be done for hydrolysis, water quality, transmission, water pressure and so on. Estimates at this stage are that in the aggregate this will take about 8 to 10 weeks from today. We have no difficulty in accepting this as a timeline, although even this is presently approximate.

3. For our purposes what is important is that the Vasai-Virar City Municipal Corporation ("**VVMC**") is not denying water supply to the Petitioners or to anybody else. The delay is on a matter of civil engineering and hydraulic engineering. Those engineering questions will not lend themselves to the issue of a mandamus.

4. It is sufficient, therefore, to accept Mr Rao's statement with the necessary approximations that he has made clear.

5. But Mr Rao raises another point which we believe is equally valid and that is the concern that there are several flats or perhaps even several hundreds of flats, some in societies and some in layouts where societies are not yet formed, where there are mounting arrears of property tax dues.

6. This is indeed a matter of concern to us because we cannot conceive of a situation where a property owner refuses or fails to pay property tax and yet demands municipal services or opposes the recovery of those property tax dues. We clarify that nothing in our orders is to be construed as a restraint against the VVMC from taking every step available to it in accordance with law for the recovery of all property tax dues. This may include the service of notice, specifying a time limit within which the dues must be paid, specifying the default consequences (as noted below) and then taking the necessary actions. For instance, where there is a society it is perfectly legitimate for the VVMC to require that the society to which water supply has been provided must disconnect internal water supply to those flats that continue to be in arrears of property tax dues after the process for recovery of property tax dues has been initiated. In addition to the VVMC may move against those flats/flat owners themselves. If despite a demand from the VVMC, the society is either unable, unwilling or fails to disconnect water supply to a defaulters property/ tax defaulters premises, then it will of course be open to the VVMC to itself peremptorily take action against that flat in question.

7. Where there are no societies formed, and given that the municipal supply is only to the entry point of the boundary of the layout, we do not see why the VVMC cannot take steps (after initiating the statutory process for property tax recovery) to close or cut off the intake water supply to the flat in question and to seal that water intake.

8. But at the same time, it is impossible to accept that because there are some defaulters, others who are not in default should be denied their rights to water supply. Similarly, the initial water supply cannot be denied on the ground that there is a property tax due. The disconnection of water supply may be permissible, if contemplated in law, only in recovery proceedings in accordance with law for the property tax dues.

9. We believe these clarifications are sufficient and have adequately balanced the interests of both sides. No further orders are presently required.

10. We dispose of the Petition in these terms but reserve express liberty to both sides to apply should the need arise.

11. We note Mr Jagtiani's statement that none of the Petitioners are in default of property tax dues.

12. We also note his further submission that 'because of the Petition', the VVMC has recovered vast amounts in property tax. We allow Mr Jagtiani to take credit for this, although we dare say our order might also have had something to do with it.

(Kamal Khata, J) **(G. S. Patel, J)**