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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 547 OF 2025
WITH
INTERIM APPLICATION NO. 12539 OF 2025
IN
APPEAL FROM ORDER NO. 547 OF 2025

Moshin Salim Chunawala

Appellant
.. (Orig. Petitioner)

Versus

The State of Maharashtra,
Through Commissioner and Ors.

Respondents
.. (Orig. Defendants)

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• Mr. Anil D'Souza a/w. Ms. Anita M. Naik, Advocates for Appellant.

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 27, 2025.

P.C.:

- 1.** Heard Mr. D'Souza, learned Advocate for Appellant.
- 2.** The Chief Government Pleader of the Appellate Side shall immediately look into this matter and appoint a responsible Pleader alongwith instructions to appear in the present Appeal From Order on behalf of the State of Maharashtra and its functionaries who are the Respondents herein.
- 3.** Considering the issue which is involved in the present case, this Court is of the clear opinion that without any adjudication having been done demand has been raised on the Plaintiff directly on the basis of a confidential communication received by the Collector from the

office of the Police Commissioner, Vasai informing him about computation of police protection charges. It is *prima facie* seen that Plaintiff had never sought for or demanded any police protection rather when the Plaintiff was in dire need of police protection in the year 2012, he made an appropriate Application to the Commissioner of Police which was rejected. It is seen that for a brief period between 23.09.2014 to 16.05.2015 police protection was provided to Plaintiff by the Protection Branch of Mumbai Police without his consent.

4. Case of State is that police protection was provided on payment basis and sanctioned by the Sanctioning Authority. If that is the case, appropriate documentation to that effect of Petitioner having consented to police protection shall be shown to the Court and the Government Pleader who shall appear shall take appropriate instructions on that count.

5. There is nothing on record to show the basis of the sanction by the Sanctioning Authority as on today. Pleadings are to the effect that the protection branch had informed the Plaintiff vide confidential report dated 05.03.2015 that protection charges were not paid by Plaintiff for the said period / tenure for providing police protection. Reliance is sought to be placed on Government Resolution (GR) dated 04.01.2008, but that GR will apply only post adjudication and not to the facts of the present case.

6. In the present case, it is also seen that during the period / tenure in question, Plaintiff had also visited Saudi Arabia in the year 2014 and it is his case that when he questioned the sudden police protection given to him, he was informed that all those persons who got phone calls from a particular gangster at that time were required to be provided police protection as per the orders from the Senior Police Authorities and therefore protection was provided to him. Charges demanded are substantial.

7. Case of the Plaintiff is that Defendant Nos.2 and 4 on their own volition decided to provide police protection to him without there being any written request from his side whatsoever or demand for seeking such police protection. Such defense of the Plaintiff ought to have first been examined and considered before issuing the demand notice / letter for recovery of the amount as arrears of land revenue. The moot question is that the amount demanded has not stood crystallized by any adjudication process whatsoever and therefore the impugned order is *prima facie* not sustainable in law. This Court fails to understand as to why Suit was filed in the above facts.

8. Though the Appeal From Order has been served on Respondents, none is present for Respondents.

9. Hence the Chief Government Pleader shall ensure that a responsible Pleader to appear on the next adjourned date on instructions. No time will be given for taking instructions on the next date.

10. Copy of this order shall be served on the Chief Government Pleader by Mr. D'Souza, Advocate for Plaintiff.

11. Stand over to **4th December 2025**.

[MILIND N. JADHAV, J.]

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