IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2925 OF 2025

Princecare Homes LLP And Anr. ...Petitioners

Versus

Brihanmumbai Municipal Corporation And Ors. ...Respondents

Mr. Bhushan Deshmukh a/w Mr. Sanjeel Kadam, Ms. Soham Salvi & Ms. Netra Jagtap i/b Kadam & Co., Advocates for the Petitioners.
Mr. S. V. Tondwalker i/b Ms. Komal Punjabi, Advocates for the Respondent-BMC.
Mr. Hile Laxman Yadu, Dy. Supdt, G/N Ward and Mr. Sukum Namdev K., Insp. G/N Ward are present in the Court.

CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.

DATE : 22nd SEPTEMBER 2025.

P.C. :

1. The Petitioners were before this Court in a group of writ petitions (Writ Petition No. 2592 of 2013 and group of matters), *Property Owners' Association And Others v/s. The State of Maharashtra And Others*. This Court [Coram: **A. S. Oka (as is Lordship then was) and Riyaz I. Chagla, J.J.**], delivered a judgment on 24th April 2019. The conclusions drawn in paragraph nos. 229 & 230, are reproduced hereunder :-

"*229. Our conclusions can be summarized as under :*

(1) We uphold the constitutional validity of the provisions of the BMC Act which are under challenge;

(ii) The Capital Value Rules of 2010 shall apply prospectively from the date on which the same were made;

(iii) We strike down rules 20, 21 and 22 of Capital Value Rules of 2010 and 2015. As far as rules 3 and 17 are concerned, we hold that as rule 21 has been struck down, the capital value of properties covered by the said rules shall not be fixed in accordance with rule 21. As a result of striking down of rules 20, 21 and 22, in those cases where the capital value has been finally fixed either by issuing notice under section 162 of the BMC Act or by issuing final bills, the Commissioner or the officer empowered to exercise delegated powers will have to re-determine the capital value in accordance with sub-section (1A) of section 154 and serve a fresh special assessment notice. We hold that if a complaint is filed after service of special assessment notice, the same shall be disposed of only after giving an opportunity of being heard to the assessee filing such complaint. Only after the complaint is disposed of in such a fashion, a final bill can be served.

(iv) As the Municipal Commissioner will require a reasonable time to do the tasks as aforesaid, the interim orders which are operating in these petitions will have to be continued till the service of final bills. We also make it clear that though we are setting aside the final bills issued, no party will be entitled to claim refund of the amounts paid under the interim orders and till the final bills are served, the petitioners will have to pay the amounts as per the interim orders.

(v) This judgment will apply only to the properties subject matter of the petitions in this group except Writ Petition No. 2592 of 2013 and PIL 46 oF 2014. We make it clear that only those special assessment notices and final bills which are specifically challenged will stand set aside. In Writ Petition

No. 2592 of 2013, the fresh exercise will have to be undertaken only in relation to the properties in respect of which there is a specific prayer for quashing the notices and bills based on final assessment. The details of properties held by 610 members in the lead petition are not set out. Hence, no relief can be extended to the properties of the said members save and except the properties subject matter of bills and notices which are expressly challenged.

(vi) This judgment will not affect the final bills which are accepted by the concerned owners.

230. We record our appreciation for the valuable assistance rendered by the learned counsel appearing for various parties. We dispose of the petitions by passing the following order :

<u>O R D E R</u>

(i) We reject the prayers made for challenging the constitutional validity of various provisions of the Mumbai Municipal Corporation Act, 1888 as prayed in the writ petition/PIL. We hold that Rules 20, 21 and 22 of the Capital Value Rules of the years 2010 and 2015 are ultra vires the provisions of the Mumbai Municipal Corporation Act, 1888 and, therefore, the same are struck down;

(ii) We quash and set aside the special assessment notices and final bills based on final capital value fixed which are specifically the subject matter of challenge in this group of petitions. The demand of provisional taxes is not disturbed. The orders specifically impugned which are passed on the complaints do not survive. We direct the Mumbai Municipal Corporation to re-fix the capital value in respect of the properties subject matter of the notices/final bills which are set aside in the light of the findings recorded earlier. After re-determination of capital value, special assessment notices be issued to the persons primarily liable to pay property taxes in respect of subject properties. Thereafter, further steps shall be taken by the Municipal Corporation in accordance with law;

(iii) We hold that the complaints filed objecting to the special assessment notices issued under sub-section (2) of section 162 shall be disposed of only after giving an opportunity of being heard to the complainants.

(iv) Till the expiry of a period of 21 days from the date on which fresh special assessment notices are served in accordance with clause (ii) above, the ad-interim/interim orders which are operating in these petitions till today shall continue to operate subject to compliance of requirement of deposit of amounts by the petitioners as set out in those orders. In those cases where the complaints are lawfully filed within stipulated time pursuant to the special assessment notices, the ad-interim/interim reliefs will continue to operate on the same conditions till the date of service of fresh final bills;

(v) Rule is made partly absolute on the above terms;

(vi) All pending chamber summonses and notices of motion stand disposed of."

The judgment of this Court was carried before the Hon'ble Supreme Court and it is undisputed that the SLP as well as the Review Petition, have been rejected.

2. Pursuant to the above, the Petitioners were permitted to tender an Application for seeking refund/adjustment of Property Tax paid on 'Land Under Construction'. The Petitioners tendered such an Application to the Municipal Commissioner on 11th April 2023. Till today, the said Application is admittedly pending.

3. In view of the above, **this Petition is disposed off** with the following directions :-

a. Respondent No. 2 would deal with the said representation in the light of the above referred judgment and deliver an order on or before 31st October, 2025. If the Petitioners are held entitled for the refund, the same shall be paid along with the statutory interest, on or before 15th December, 2025.

b. If the Petitioners are aggrieved by the order or any part thereof, they would be at liberty to avail of a remedy as is permissible in law.

[ASHWIN D. BHOBE, J.] **[RAVINDRA V. GHUGE, J.]**

GITALAXMI KRISHNA KOTAWADEKAR Digitally signed by GITALAXMI KRISHNA KOTAWADEKAR Date: 2025.09.23 11:25:46 +0530