

Sharayu Khot.

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

WRIT PETITION (L) NO. 912 OF 2018

Ganpatraj Badanraj Mehta

...Petitioner

*Versus*

The Municipal Corporation of Greater  
Mumbai & Ors.

...Respondents

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Mr. Ganesh S. Bhat, for the Petitioner.

Ms. Pallavi Thakar, for the Respondent-BMC.

Mr. Hemant Haryan, for the Respondent-State.  
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CORAM : ABHAY S. OKA AND  
RIYAZ I. CHAGLA, JJ.

DATE : 22 March 2018

**ORDER :**

1. Not on board. Taken on board.

2. Heard the learned Counsel appearing for the Petitioner and the learned Counsel appearing for the 1st and 2nd Respondents.
3. We grant leave to amend the Petition for challenging the relevant statutory provisions. Amendment to be carried out within a period of two weeks from the date on which this order is uploaded.
4. Rule. To be heard along with the Writ Petition No. 2592 of 2013.
5. The learned AGP for Respondent No. 3 and the learned Counsel for 1st and 2nd Respondents waive service.
6. Issue notice to the learned Advocate General. Notice is accepted by Additional Government Pleader on behalf of the learned Advocate General.
7. The property of the Petitioner has been sealed for

non payment of the property taxes. Perusal of various provisions of the Mumbai Municipal Corporation Act, 1888 and especially from Section 203 onwards shows that for non payment of property taxes, there is no provision for sealing immovable property of the defaulter. Attachment can be levied and property can be put to sale for recovery of the taxes.

8. However, the learned Counsel appearing for the 1st Respondents relies upon the Circular dated 4 August 2016 signed by the Additional Commissioner and other Officers of the Municipal Corporation. Clause 7 thereto lays down as to how the sale under Section 206 to be effected.

9. As *prima facie* the statute does not permit sealing of the property, we direct the Municipal Corporation to forthwith remove the seal.

10. Place the Petition for hearing as to interim relief on 3 May 2018.

3/4  
March 22, 2018

11. By way of an *ad-interim* relief, we restrain 1st and 2nd Respondents from taking coercive action for recovery of property taxes subject to condition of the Petitioner depositing with the Municipal Corporation the Municipal taxes payable at pre-amended rates and in addition, a differential amount of 50 percent of the tax payable under old regime and the tax payable under the new regime.

12. Amount payable as of today shall be deposited within a period of four weeks from today, failing which an *ad-interim* relief has been vacated without further reference to the Court.

13. The Petitioner will continue to pay the amount as aforesaid till further orders.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]