

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

Amk

WRIT PETITION NO. 1685 OF 2017

Cable Corporation of India Ltd. .. Petitioner
Vs.
The Principal Secretary,
Revenue and Forest Department & Ors. .. Respondents

Mr. Cherag Balsara a/w. Mr. Dinesh Kumar Seth, Yashovardhan D. K. Seth i/b Mehul Rathod for the Petitioner.

Ms. Jyoti Chavan, AGP for Respondent Nos.1 to 4 and 7-State.

Ms. Pallavi Thakar i/b Ms. Aruna Savla for Respondent Nos.5 & 6-MCGM.

Mr. Govind Gavade, Deputy Superintendent, R/South Ward present.

CORAM : R. D. DHANUKA & V. G. BISHT, JJ.

DATE : 25th JANUARY, 2021.

P. C. :

1. Heard learned Counsel for the parties.
2. The grievance of the Petitioner is that the property of the Petitioner could not have been classified under Village 86 Zone 390 and ought to have been classified under Zone 389. It is the case of the Petitioner that for subsequent years the property of the Petitioner is classified in Zone 389 and only for the year 2010 the same was classified in Zone 390. The Municipal Corporation has raised demand in respect of municipal tax on the basis of such classification of the property of the Petitioner in Zone 390 for the year 2010.
3. Mr. Balsara, learned Counsel for the Petitioner invited our attention to the affidavit-in-reply filed by the Deputy Director of Town

Planning through Jitendra Laxman Bhople and more particularly paragraph 10 contending that the Petitioner had approached for correction of zone retrospectively from the year 2010 which cannot be corrected subsequently. He submits that the demand for the year 2010 was received only in the year 2016 and thus the Petitioner could not have challenged the said classification of the Petitioner's land in Zone 390 earlier. The Petitioner is ready and willing to pay all the taxes on the basis of the plot of the Petitioner falling in Zone 389. Statement is accepted.

4. In view of statement made by the learned Counsel for the Petitioner, the following order is passed:

- (i) Rule.
- (ii) Learned Counsel for the Respondent Nos.1 to 4 waives service.
- (iii) Learned Counsel for Respondent No.5 waives service.
- (iv) There shall be interim relief in terms of prayer Clause (h) on the condition that the Petitioner pays municipal tax on the basis of classification of the Petitioner's land in Zone 389 during the pendency of the Petition. It is made clear that the Petitioner would be liable to pay differential amount with interest at such rate as this Court may direct if the Writ Petition fails. The Petitioner shall file an undertaking to the effect that the Petitioner would pay all the municipal taxes payable according to the classification of the plot as if under Zone 389 from time to time during the pendency of this Writ Petition. Such undertaking shall be filed within two weeks from today with a copy to be served on the Respondents' Advocate. The undertaking shall also provide that if the Petitioner fails in this Petition, the Petitioner

would pay the differential amount with such interest as this Court may direct.

(v) According to the Petitioner there is excess payment made by the Petitioner to the Municipal Corporation towards municipal taxes. Learned Counsel for the Municipal Corporation does not accept the statement made by the learned Counsel for the Petitioner. Parties are at liberty to reconcile their statements.

[V. G. BISHT, J.]

[R. D. DHANUKA, J.]