

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5211/2012

(INDUS TOWERS LIMITED & OTHERS **VERSUS** AKOLA MUNICIPAL CORPORATION, AKOLA &
 ANOTHER)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri M.G. Bhangde, Senior Counsel with Shri P.A. Abhyankar, counsel for
 the petitioners.

Shri A.G. Mujumdar, A.G.P. for the R-3.

CORAM : SMT. VASANTI A. NAIK AND
SUNIL P. DESHMUKH, JJ.

DATE : OCTOBER 30, 2012.

The learned Senior Counsel appearing on behalf of the petitioners submitted that the Akola Municipal Corporation was not justified in directing the petitioners to pay the penalty to the tune of Rs.46,10,421/- by invoking the provisions of Section 267-A of the Bombay Provincial Municipal Corporation Act, 1949 without recording a finding that the construction of mobile towers by the petitioners was unlawful. It is submitted that in stead of referring to the provisions of Section 267-A, the authority has erroneously referred to the provisions of Section 267(3) of the Act of 1949. It is submitted that though the property tax for the year 2011-12 has been paid by the petitioners, the respondent no.1-Corporation is illegally demanding tax for the year 2012-13 and the demand notice includes the amount payable towards property tax for the year 2012-13.

Hence, issue notice to the respondents, returnable on 23.11.2012.

The respondents are put to notice that the writ petition may be heard and finally decided at the stage of admission.

Shri Mujumdar, the learned Assistant Government Pleader, waives notice on behalf of the respondent no.3.

Since the petitioner has made out a *prima-facie* case, the impugned demand dated 07.09.2012 is stayed till the returnable date on the condition that the petitioners deposit 30% of the amount payable as per the demand notice in this Court till the returnable date.

JUDGE

JUDGE

APTE