

THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. _____ OF 2013

Property Owners' Association .. Petitioners

Versus

State of Maharashtra and others ... Respondents

I, _____, Indian inhabitant of Mumbai, aged about _____ years, son of Shri _____ occupation _____ residing at _____ do hereby state on solemn affirmation as under:

1. I am aware of the facts and circumstances of the case.
2. I say that on or about 16th January 2013, the Petitioner No. 1 submitted a letter to the Hon'ble Governor of Maharashtra, Chief Minister and others in which it was stated that their Memorandum/ representations and objections and suggestions were totally ignored when the new property tax system was brought into force. I crave leave to refer to and rely upon the Memorandum dated 16th January 2013 sent to the Respondents and others, when produced. The said memorandum was signed by 669 members of the Petitioner No. 1. By the said memorandum it was interalia pointed out

- a) the settled principles of law relating to compensatory taxes as well as the sine quo non for levying a tax;
- b) the proposed levy of taxes under the CV system had the effect of asking the citizens to subsidise the services that are to be rendered by the civic corporation to the slum dwellers and the like;
- c) the value of occupied/tenanted premises is very much less compared to the value of a vacant land and therefore the adoption of the SDRR as the basis needed to be reconsidered and a distinction is to be made and spelled out clearly in respect of such tenanted premises;
- d) the rate of depreciation of old buildings was neither correct nor fair;
- e) even in the SDRR the percentage of depreciation for buildings above 60 years was 70%;
- f) the SDRR itself provides different rates for different categories of users of the property and the increase in rate of tax on the basis of user was uncalled for;
- g) the consideration of additional factors for arriving at the CV of the building is arbitrary.

3. I say that the Petitioner No. 1 called for a meeting of its members on 7th February 2013 to consider the impact of the fixation of property tax as per the SDRR. The members of the Petitioner No. 1 unanimously decided to send a memorandum to several authorities including the Hon'ble Chief Minister and the Respondent No. 2. I crave leave to refer to and rely upon the memorandum dated 7th February 2013 which was duly signed by 795 members of the Petitioner No. 1. In the said memorandum, it was inter alia pointed out that
- a) Once the cap is removed, the tax payable under the capital value system would become very exorbitant with the tax ranging from 16 times to 30 times or even more of the existing tax;
 - b) They had submitted a memorandum dated 16th January 2013 to the Hon'ble Governor of the State of Maharashtra, the Hon'ble Chief Minister, the Hon'ble Mayor and others duly signed by 700 owners of properties.
4. I say that on or about 15th March 2013, the members of the Petitioner No. 1 had a Special General Meeting. The said meeting was attended by representatives of several cooperative societies, who also opposed the levy of property tax on the CV method. In the said meeting, it was unanimously inter alia decided that representations would be made not only to His Excellency the Governor of Maharashtra but also to His Excellency the President of India. The Petitioner No. 1 addressed a

memorandum to the Hon'ble Governor, Hon'ble President and other important persons who are responsible for running this country. In the said memorandum, the Petitioners sought the intervention of the officials including the Hon'ble Prime Minister and the Hon'ble Chief Minister for a stay of the extremely high municipal taxes based on the CV system. The memorandum was signed by more than 1200 persons. I crave leave to refer to and rely upon the said memorandum dated 15th March, 2013 signed by the members of the association and others, when produced.

5. On 15th March 2013, the members of the Petitioner No. 1 had also passed a resolution that the levy of Property Tax on the basis of the Capital Value System should be challenged.
6. I say that I fully agree with the decision to file the Writ Petition and I totally support the same.
7. I say that I am filing this affidavit for the limited purpose of supporting the Writ Petition in which the Petitioner No. 1 had inter alia, sought to seek to
 - a) Strike down sections 128(3); 129A, 144, 144A, 144E, 146; 140 (1) (a); 140 (1) (b); 140 (1) (ca) read with Section 195 (E) and 195 (G); 140 (1) (d) read with Section 354(UA), 146, 154 and lastly section 202 of the Act.

- b) Strike down the levy of property taxes under the Act as being exorbitant and confiscatory in nature thereby violating Art. 14 and 21 of the Constitution of India.
- c) Declare that the fixation of the rate of tax by the Respondent No. 2 is arbitrary and ultra-vires Article 14 of the Constitution.
- d) Declare that penalty at 2% per month for default in payment of taxes is ultravires.

8. I say that I am filing this Affidavit only to avoid the necessity of filing a separate Writ especially as the present Writ that has been filed by the Petitioner No. 1 seeks to address my grievances.

Solemnly Affirmed at Mumbai on
this the _____ day of April 2013

Before me