

CASE NO.:
Appeal (civil) 620 of 2008

PETITIONER:
Brihanmumbai Mahanagar Palika & Anr

RESPONDENT:
Akruti Nirman Pvt. Ltd. & Anr

DATE OF JUDGMENT: 23/01/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Bombay High Court allowing the appeal filed by the respondents. The appeal was filed by the respondents challenging the order passed by learned Additional Chief Judge of Small Causes Court dated 31.3.2000 in Municipal Appeal No. 19 of 2000 under Section 217 of the Mumbai Municipal Corporation Act, 1888 (in short the \021Act\022). In the appeal, the order of assessment passed by the present appellants was under challenge. The order of the respondents related to refusal to entertain the complaint of the respondents and confirmation of rateable value.

3. Though many points were urged in support of the appeal, the main plank of the argument of learned counsel for the appellants was that the High Court has not applied its mind to various points urged and after noting the submissions came to abrupt conclusions. In other words it is submitted the judgment is practically non-reasoned.

4. Learned counsel for the respondents on the other hand said that though elaborate analysis have not been made, yet the conclusions have been arrived at after noting the submissions.

5. It is to be noted that various contentious pleas were raised in the appeal. The High Court ought to have analysed the factual position in the background of principles of law involved and then to decide the appeal. That has not been done.

6. It is to be noted that after making detailed reference to the arguments and contentions raised, abrupt conclusions were arrived at by the High Court. That is not a proper way to dispose of the first appeal.

7. In the circumstances without expressing any opinion on the merits of the case, we set aside the impugned judgment of the High Court and remit the matter to it for fresh consideration on merit in accordance with law.

8. The appeal is allowed to the aforesaid extent without any

order as to costs.

JUDIS