

# SUPREME COURT OF INDIA

Municipal Corporation of Gr.Mumbai & Ors.

Vs.

Crescent Builders

C.A.No.2411 of 2016

(Kurian Joseph and R.F.Nariman,JJ.)

01.03.2016

## JUDGMENT

**Kurian Joseph,J.**

(Arising out of SLP (C) No.13390/2012)

1. Leave granted.
2. The issue raised in this appeal pertains to the steps taken by the appellant-Municipal Corporation for assessment of property tax. In the context and the nature of the order we propose to pass in this case, it is not necessary for us and it will not be proper also at this stage to deal with the various contentions. The High Court by the impugned judgment has ultimately issued a direction to the Assessing Authority to complete the assessment and has also issued another direction to the respondent to make a deposit of 25% of the amounts due w.e.f. 01.04.2008, with 18% interest. We express no opinion on the justification adopted by the High Court for choosing that date and percentage. After all, it is only an interim arrangement pending the final assessment.
3. The learned senior counsel appearing for the Corporation, however, submits that the High Court has already entered a finding at paragraph 8 of the judgment regarding the method of assessment. Paragraph 8 reads as follows:

"In view of the above settled legal position we find considerable substance in the argument on behalf of the appellant that the Municipal Corporation could not have levied property tax on the land in question, otherwise than in accordance with the law laid down in the aforesaid judgments and in the aforesaid circular dated 8 July,1997 at Exhibit D to the petition."
4. After also having heard Shri Shekhar Naphade, learned senior counsel appearing for the respondent, we find it difficult to agree with the approach taken by the High Court at this

stage. The High Court has already directed the Assessing Authority to complete the assessment and therefore everything should have been left to that Authority.

5. The Assessing Authority has to complete the assessment in accordance with law. Therefore, the factual and legal positions are at large before the Assessing Authority and it is for both the parties to take all available contentions before the Assessing Authority. We hence vacate the finding entered by the High Court and also all other observations on merits, in the impugned judgment regarding the method of assessment. However, we retain the interim arrangement made by the High Court. The Assessing Authority shall complete the assessment expeditiously.

6. All contentions available to both the parties are left open to be taken before the Assessing Authority.

7. In view of the above, the appeal is disposed of with no order as to costs.