

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 6154 OF 2014

Varroc Elastomers Pvt.Ltd.
Plot No. M-191/3/1, Industrial Area
Waluj, Aurangabad 431 136.
Through its Managing Director
Shri P. Janardhana Swami
age 58 years, occ.service

.. PETITIONER

VERSUS

1. The State of Maharashtra
(Through its Secretary
Industries Department,
Mantralaya, Mumbai 32.)
2. Maharashtra Industrial Development
Corporation, Through its
Chief Executive Officer,
Marol Industrial Area
Mahakali Caves Road, Andheri (E)
Mumbai 400 093.
3. The Maharashtra Industrial Development
Corporation,
Through its Joint Chief Executive Officer
I.T. MIDC, Andheri, Mumbai.
4. The Maharashtra Industrial Development
Corporation, Through its Regional
Office, Aurangabad Region,
MIDC Industrial Area,
Near Railway Station,
Aurangabad.
5. The District Collector,
Aurangabad at Aurangabad.

.. RESPONDENTS

AND

1. Mirabai Pandit Alhat
age major, occ. Housewife
r/o Jogeshwari MIDC Waluj
Tq. Gangapur, Dist. Aurangabad.
2. Kausabai w/o Nagorao Wakale
age major

r/o Jogeshwari MIDC Waluj
Tq. Gangapur, Dist. Aurangabad.

3. Seema w/o Anil Bagul
age major, occ. Housewife
r/o Jogeshwari MIDC Waluj,
Tq. Gangapur, Dist. Aurangabad.
4. Meenatai w/o Nanasaheb Sonawane
age major, occ. Housewife,
r/o Jogeshwari MIDC Waluj,
Tq. Gangapur, Dist. Aurangabad.

.. INTERVENERS

Mr. A.G. Talhar, advocate for petitioner.
Mr. N.B. Patil, AGP for the State.
Mr. S.S. Dande, advocate for respondents 2 to 4.
Mr. R.P. Bhumkar, advocate for interveners.

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**CORAM : R.M. BORDE &
P. R. BORA, JJ.**

RESERVED ON : 7th AUGUST, 2015.

PRONOUNCED ON : 11th DECEMBER, 2015.

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard Mr. A.G. Talhar, learned counsel for petitioner, Mr. N.B. Patil, learned AGP for the State, Mr. S.S. Dande, learned counsel for MIDC and, Mr. R.P. Bhumkar, learned counsel for interveners.

2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. Petitioner, a private limited company, conducting activity of manufacturing auto components, is objecting to the corrigendum dated 04.07.2014 issued by MIDC thereby deducting an area to the extent of 312 Sqm. for providing 3.0 m wide road strip through the plot allotted to the petitioner – company earlier. The action of curtailing area thereby making

sub-division of the industrial plot allotted to the petitioner has been taken abruptly by the MIDC.

4. Certain facts which are not disputed can be summarised as below :-

Petitioner is a sister concern of Varroc Engineering Pvt. Ltd. At the request of the sister concern of petitioner-company, plot no. M-191 came to be divided into two plots; 1 admeasuring 8000 Sq.Mtrs. re-numbered as M-191/2 and, second sub-division admeasuring 29450 Sq. Mtrs. re-numbered as M-191/3. The sub-division of the plot was approved by MIDC. Plot no. 191/2 admeasuring 8000 Sq. Mtrs. came to be transferred in favour of petitioner-company and, agreement to that effect was executed on 03.02.2006. Corporation-respondent no. 4 herein also issued 'no objection' for construction in favour of petitioner-company on 24.11.2008 and the plan and design for construction was approved. At later point of time, on request made by the sister concern of petitioner, plot no. 191/3 was further divided into 2 plots; 1 admeasuring 25350 Sq. Mtrs. re-numbered as 191/3 and, second sub-division admeasuring 4080 Sq. Mtrs. re-numbered as 191/3/1. Plot no. 191/3/1 came to be transferred to petitioner-company and a supplementary agreement to that effect came to be executed on 27.09.2011, to which, MIDC was party. Consent for sub-division was earlier obtained from MIDC on 14.05.2010. Petitioner-company also deposited Rs. 22,64,407/- towards differential premium on 07.04.2010. Larger plot admeasuring 46736 Sq. Mtrs. was put in possession of the sister concern of petitioner in the year 2004 itself although the sub-division of plot was

permitted at later point of time and was sanctioned by MIDC.

5. It is the contention of petitioner-company that there exists an unauthorised locality / settlement occupying the Government land which is adjacent to the industrial plot allotted to petitioner and its sister concern. The residents of the unauthorised locality were causing disturbance and were obstructing construction activity initiated by petitioner-company. As such, several complaints were lodged with MIDC since 22.02.2012 onwards seeking intervention of the corporation and for protection of the plot allotted to the petitioner-company. However, instead of granting protection to the petitioner-company, the Corporation, on consideration of the request made by unauthorised occupants over the Government land, by communication dated 11.04.2012 called upon the petitioner-company to furnish 'no objection' for providing 3.0 mtrs. wide road passing through the plot allotted to the petitioner-company. Petitioner-company seriously objected the proposal by tendering reply on 18.04.2012. It was pointed out that the settlement on Government land is unauthorised one and there already exists access from East and West side of the settlement leading towards the main MIDC road. It was also pointed out that providing such access through the plot of petitioner-company would pose serious security problems for the petitioner. It was also pointed out that the request for access through the plot of the petitioner is made by the persons from unauthorised locality with a view of blackmail the petitioner and, the request is politically motivated. MIDC, however, succumbed to the pressure of the members of the unauthorised locality and political leaders and,

abruptly issued communication on 04.07.2014 thereby curtailing allotted of area of plot in favour of petitioner by 312 Sq.Mtrs. Respondent-MIDC also unilaterally issued instructions to the petitioner not to proceed with the construction activity in accordance with the approved plan and to submit revised drawing in view of the correction made in the allotted plot area. Petitioner submits that the action of curtailing allotment of plot which was made in the year 2004 in favour of the sister concern of the petitioner is arbitrary and against the provisions of law. MIDC officials succumbed to the political pressure and have directed curtailment of the area of plot allotted to petitioner after lapse of more than 13 years from the date of its allotment. It cannot be disputed that as a consequence of providing access through the plot allotted to the petitioner, the plot area came to be divided into two parts. The contention raised by petitioner that it would pose serious security issues for the company also deserves acceptance. It is also not a matter of dispute that the settlement on whose behalf MIDC has intervened, is not an authorised settlement however, unwarranted concession has been extended to unauthorised settlement thereby putting the authorised lease holder of the plot, who has paid huge amount for securing leasehold rights, at disadvantageous position.

6. It is the contention of MIDC that the residents of the unauthorised settlement were using the plot area for access to the road and, as such, in order to facilitate the residents of the unauthorised settlement, a direction has been issued thereby curtailing the plot area allotted in favour of the petitioner for providing access to the residents of the locality settled over the

Government land. It is contended that the action has been taken in order to maintain law and order. It is not a matter of dispute that the petitioner or its sister concern have been allotted the plot in the year 2004 and, possession thereof has also been handed over. It is the contention of MIDC that the action taken is within the powers exercisable under section 15(f)(ii) of the Maharashtra Industrial Development Act, 1961. Section 15(f)(ii) of the Act authorises MIDC to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of their allotment. In the instant matter, however, it has not been pointed out that the petitioner has committed any breach of the terms and conditions of allotment. It is further contended on behalf of MIDC that the instant petition does not deserve to be entertained in view of availability of efficacious alternate remedy of presenting suit to the Civil Court. Since MIDC, by issuing corrigendum, has directed revocation of the allotment of area to the extent of 312 Sq. Mtrs. for the purpose of providing access to the unauthorised locality, the validity of the corrigendum, which is impugned in the instant petition, can be examined. The action of MIDC in revoking allotment of part of plot area is without observing the procedure prescribed and has no justifiable reason and, the same being not within the framework of any legal provision, can be examined by this Court under writ jurisdiction.

7. The action taken by MIDC is beyond the powers vested in the said authority. Apart from this, in order to provide concession to the unauthorised occupants of the Government land, the MIDC has sacrificed

the interest of petitioner who has paid huge premium and acquired leasehold rights in the year 2004. It also ought to have been considered that the unauthorised settlement does have access to the road from eastern and western side and as such, providing for an access through the plot of petitioner does not deserve consideration on humanitarian grounds. The contention raised by petitioner that, such an action has been taken under the pressure exercised by the residents of the unauthorised locality and the political leaders, deserves to be accepted. The corrigendum dated 04.07.2014 issued by MIDC thereby revoking allotment of area to the extent of 312 Sq. Mtrs. and, communication dated 11.07.2014 thereby directing petitioner-company not to proceed further with the construction in accordance with earlier sanctioned plan and to submit revised plan, are quashed and set aside. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(P. R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

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