

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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WRIT PETITION NO.10481 OF 2012

SANCIA Global Infraprojects Ltd. .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

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Mr.R.B. Jagtap a/w. Mr.Ashok B. Tajane and Mr.D.R. Singh,
Advocate for the Petitioner.
Mr.V.S. Gokhale, AGP for Respondent No.1 – State.
Mr.Prashant P. Chavan a/w. Mr.Ankit Kulkarni i/b. M/s.Little & Co.,
Advocate for Respondent Nos.2 to 4.
....

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : MARCH 25, 2015.

P.C. :

Heard the learned counsel appearing for the petitioner.
The challenge in this petition under Article 226 of the Constitution of India is to the notice of termination dated 9th May, 2011, issued by the Maharashtra Industrial Development Corporation (hereinafter referred to as “MIDC”, for short). By the said notice, the agreement of lease dated 5th September, 2007 has been terminated on the ground of breach of terms and conditions on which the plot in question was allotted to the petitioner.

2 The submission of the learned counsel appearing for the petitioner is that there were several difficulties in the way of commencing construction on the said plot. His submission is that admittedly, the petitioner has carried out some construction by investing huge amount. He pointed out that there were encroachments on the plot. He pointed out that there was a delay on the part of the MIDC in granting approval to the building plan. Without prejudice to the aforesaid contentions, he submits that termination is not the only option available to the MIDC. He submitted that even the plot could have allowed to to be retained by the petitioner by charging extra premium. He states that MIDC while dealing with the public property ought not to have been acted arbitrarily and that MIDC ought to satisfy this Court as to why the other option of not terminating the agreement is not considered.

3 We have considered the submissions. We have perused the reply filed by the MIDC. In the order of allotment dated 7th February, 2007, there was a specific condition incorporated regarding commencing construction on the said plot within a period of six months from the date of handing over possession of the plot, failing which the MIDC has right to take back the possession. An undertaking in terms of the said Clause No.15 was given by the

petitioner. One of the breaches alleged in the notice under challenge is of failure of the petitioner to commence construction within the stipulated period of six months.

4 Though we repeatedly called upon the learned counsel for the petitioner to disclose the date on which the application for grant of the building permission was made by the petitioner in relation to the plot in question, the learned counsel appearing for the petitioner is unable to point out the date on which an application was made for grant of building permission. It is an admitted position that the petitioner was put in possession of the plot. To the notice dated 9th May, 2011, the petitioner issued reply on 8th June, 2011. In the said reply, the petitioner has not come out with the case that within a period of six months stipulated under the allotment order as well as in the undertaking, he even submitted a plan for approval. It is not the case made out in the reply that either the plans were submitted within a period of six months or that the construction was started within a period of six months. It is merely stated that the petitioner has invested huge amount in making the boundary wall, fencing etc., and has put up necessary infrastructure.

5 Thus, this is a case of gross breach of the terms and conditions on which the plot was allotted to the petitioner.

Considering this gross breach, it is not possible to find fault with the MIDC for not considering another option of allowing the petitioner to retain the possession subject to payment of additional premium.

6 No case is made out for interference in writ jurisdiction under Article 226 of the Constitution of India is made out. The Writ Petition is rejected.

7 On the prayer made by the learned counsel appearing for the petitioner, we direct that the ad-interim relief which is operative till today, will continue to operate for a period of three months from today.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)