

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

**Writ Petition No. 1991 of 2009**

District : Jalgaon

M/s. Balai Exim,  
Through its proprietor,  
Shri Rajendrakumar Deepchand Balai,  
Age : 54 years,  
Occupation : Business,  
Plot No. G-3/2-A, MIDC, Jalgaon,  
Industrial Area, Jalgaon,  
Taluka & District : Jalgaon.

.. Petitioner.

**versus**

1. The State of Maharashtra  
(Through its Secretary,  
Industries Department,  
Mantralaya, Mumbai - 32).
2. The Chief Executive Officer,  
MIDC, Mumbai.
3. The Regional Officer,  
MIDC, Nashik.
4. The Deputy Engineer,  
MIDC, Jalgaon,  
Taluka & District : Jalgaon.

.. Respondents.

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**With**

**Writ Petition No. 2036 of 2009**

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| District : Jalgaon |
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M/s. Suchi Impex,  
Through its proprietor,  
Smt. Kantadevi Rajendrakumar Balai,  
Age : 50 years,  
Occupation : Business,  
Plot No. G-3/2-B, MIDC, Jalgaon,  
Industrial Area, Jalgaon,  
Taluka & District : Jalgaon.

.. Petitioner.

**versus**

1. The State of Maharashtra  
(Through its Secretary,  
Industries Department,  
Mantralaya, Mumbai - 32).
2. The Chief Executive Officer,  
MIDC, Mumbai.
3. The Regional Officer,  
MIDC, Nashik.
4. The Deputy Engineer,  
MIDC, Jalgaon,  
Taluka & District : Jalgaon.

.. Respondents.

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**With****Writ Petition No. 2088 of 2009**

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| District : Jalgaon |
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M/s. Balai Organic Food  
Through its proprietor,  
Smt. Kantilal Deepchand Balai,  
Age : 63 years,

(3)

W. P. Nos. 1991, 2036 & 2088 of 2009

Occupation : Business,  
Plot No. G-3/2-C, MIDC, Jalgaon,  
Industrial Area, Jalgaon,  
Taluka & District : Jalgaon.

.. Petitioner.

**versus**

1. The State of Maharashtra  
(Through its Secretary,  
Industries Department,  
Mantralaya, Mumbai - 32).
2. The Chief Executive Officer,  
MIDC, Mumbai.
3. The Regional Officer,  
MIDC, Nashik.
4. The Deputy Engineer,  
MIDC, Jalgaon,  
Taluka & District : Jalgaon.

.. Respondents.

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*Mr. A.G. Talhar, Advocate, for the petitioners.*

*Mrs. M.A. Deshpande, Asst. Government Pleader,  
for respondent no.1.*

*Mr. S.S. Dande, Advocate, for respondent nos.2 to 4.*

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**CORAM : S.V. GANGAPURWALA &  
A.M. BADAR, JJ.**

**DATE : 3RD MARCH 2016**

**ORAL JUDGMENT (Per S.V. Gangapurwala, J.) :**

1. The petitioners assail the communication made to them with

regard to additional premium being charged for not constructing it within the stipulated time.

2. Mr. Talhar, the learned Counsel for the petitioners, submits that the petitioners were allotted the writ plots by the Maharashtra Industrial Development Corporation and agreements to that effect were also executed on 31st March 2004. As per the said agreement, the petitioners were required to complete the factory building and other structures on or before 29th November 2009 in all respects to the satisfaction of the Executive Engineer of the MIDC. The learned Counsel submits that before the said date, the petitioners have completed the construction in all respects and had applied for completion certificate. However, on 24-10-2008, the petitioners are issued with a communication that they will be charged with additional premium and further interest on the said additional premium. The said action is illegal and not in consonance with the agreement.

3. Mr. Dande, the learned Counsel for respondent nos.2 to 4 - MIDC, submits that it was mistake in the agreements. In fact, the plot was allotted to the original allottee on 30th October 1995. This plot is subsequently transferred and sub-divided in the name of the petitioners. In the year 2004, agreement is effected to that effect. The said plot was transferred without charging differential premium. According to the learned Counsel, circulars are issued by the MIDC regarding plant construction and charging of additional premium. Parties are bound to follow the circulars issued from time to time. The petitioners cannot resile or dissent from the terms and conditions in the agreement. The petitioners

are bound to pay the additional premium for not constructing within the stipulated period. The same is legal and proper.

4. We have considered the submissions canvassed by the respective parties. It is not disputed that the agreements have been executed in favour of the petitioners on 31st March 2004. The said plots are transferred in the name of the petitioners by following due procedure. The agreements i.e. the lease deeds are validly entered between the parties. The relevant clause with regard to the construction reads as under :-

" AND WHEREAS although the work of construction of the factory building and other structures agreed to be constructed by the Lessee on the said land is still in progress the Lessee has requested the Lessor to grant to the Lessee a Lease of the said land which the Lessor has agreed to do on the Lessee undertaking to complete the said factory building and the other structures on or before the 29th day of November 2009 in all respects to the satisfaction of the Executive Engineer, Maharashtra Industrial Development Corporation, in charge of the said Industrial Area (hereinafter called "the Executive Engineer" which expression shall include any other officer to whom the duties or functions of the said Executive Engineer, Maharashtra Industrial Development Corporation, may be assigned). "

5. Upon reading said clause, it is manifest that the petitioners were required to complete the factory building and other structures in all respects to the satisfaction of the Executive Engineer on or before 29th day of November 2009. It is not disputed that the petitioners have made construction before 29th November 2009. Subsequently, the respondents

have satisfied themselves and also issued the completion certificate pursuant to the interim orders passed by this Court. Now, the respondent - Corporation is coming with a case that the date mentioned in the agreement for completion of the building and structure i.e. 29th November 2009 is by mistake. This plea has not been raised prior to filing of the petitions nor any rectification deed has been entered between the parties. Parties certainly would be bound by the terms and conditions of the agreement. The petitioners have abided by the terms and conditions of the agreement. In the light of that, it would not be open for the respondents now to contend otherwise.

6. In the light of above, the Writ Petitions are allowed.

Rule is made absolute in terms of prayer clause “C” in each of the petitions. No costs.

**( A.M. BADAR )**  
**JUDGE**

**( S.V. GANGAPURWALA )**  
**JUDGE**

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