

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.6035 OF 2015**Sow.Sangita W/o Shivkumar Ghuge Vs. The State of
Maharashtra and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.B.R.Kedar, advocate for the Petitioner.
 Mr.B.V.Virdhe, A.G.P. for the State.
 Mr.S.B.Bhosale, advocate for Respondent Nos.2 and 3.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**
Date : 31.08.2016.

PER COURT :

1. Heard.
2. Mr.Kedar, learned counsel for the petitioner states that petitioner was allotted plot No.A-104, MIDC, Jintur. The possession of the plot was handed over and lease deed was executed. The construction was to be completed within sixty (60) months from the date of lease. The petitioner could not complete the construction for various reasons, as such on 28.5.2014, had filed an application seeking extension of time to carry out construction. The said application is not considered, instead show cause notice was issued to the petitioner. Thereafter, the petitioner replied show

cause notice stating that an application is already given for extension of time in May 2014. Without considering the same, the Respondent No.3 cancelled the permission of lease vide its order dated 25.5.2015 with effect from 31.3.2015. After filing of the present Writ Petition, the Respondents took possession of the said plot unilaterally on 23.6.2015. The learned counsel submits that the Respondents since the year 2013 have introduced the scheme granting extension of time for construction of the Industrial plot. The petitioner had applied for extension of time on 28.5.2014 and also on 28.1.2015. The said applications are not at all considered and abruptly order of cancellation is issued. The petitioner is a lady entrepreneur had taken the said plot for starting Mineral water plant. The Respondents ought to encourage the lady entrepreneur. The action of the Respondents is not in consonance with their own Circulars and the scheme granting extension of time. The petitioner was and is ready and willing to abide by the condition of the scheme formulated by the Respondents for extension of time.

3. Mr.Bhosale, learned counsel for the Respondent Nos.2 and 3 submits that the application of the petitioner said to be dated 28.1.2015 was in fact received by the Respondents on 28.1.2016. As per the Circular dated 23.10.2015, once the plot is repossessed, the benefit of the scheme granting extension of time can not be given. According to the learned counsel, ample opportunity is

given to the petitioner but to no avail.

4. It is not disputed that the petitioner was allotted plot by the Respondents for Industrial purpose. The petitioner was bound to carry out construction as per the terms incorporated in the lease deed. It is also a matter of fact that the petitioner failed to carry out the construction within the stipulated period. From the documents filed on record it appears that petitioner had given one application on 28.5.2014, seeking extension of time. It appears that no cognizance has been taken of the said letter. Though there is a dispute about the receipt of application given by the petitioner in January 2015, as according to the Respondents, the same is received in January 2016 but no dispute appears to have been raised of the application of the petitioner dated 28.5.2014. The Respondents could have considered the said application also as at the relevant time, the scheme exist.

5. The allotment of Industrial plot to the petitioner is governed by the contractual terms between the parties. The parties are naturally bound by the terms. However, the Respondent Nos.2 and 3 being instrumentality of the State are also bound by the scheme formulated by them for extension of time. It appears that the Respondents have not considered the application of the petitioner given on 28.5.2014, though the same may not be in a proper format. It was certainly for the authorities to consider and pass orders on it

according to their own Rules and Schemes. The possession is now taken on 23.6.2015 and as per their Circular dated 23.10.2015, the benefit of the scheme for extension of time is not to be given to the person whose plot is already repossessed. However, considering the fact that the petitioner's application is already filed in the year 2014, it would be appropriate for the Respondents to consider the case of the petitioner pursuant to the application dated 28.5.2014, as the same was given prior to repossessing the plot and also considering the petitioner is a lady entrepreneur.

6. Considering above, the Writ Petition is disposed of. The Respondents shall consider the application of the petitioner dated 28.5.2014, on its own merits in accordance with law. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.31.08.2016.
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