

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

**PUBLIC INTEREST LITIGATION NO. 89 OF 2005
WITH
CIVIL APPLICATION NO. 03 OF 2007
WITH
C.A. NOS. 39/2015, 193/2015
IN
PIL NO. 89 OF 2005**

Sandeep Shradchandra Thakur ... Petitioner/Applicant.

V/s.

The State of Maharashtra and Others. ... Respondents.

**WITH
CIVIL APPLICATION NO. 04 OF 2008
WITH
C.A. NOS. 59/2009, 96/2009, 11/2014
IN
PIL NO. 89 OF 2005**

Mahatma Gandhi Mission Trust & Anr. ... Applicants.

V/s.

Sandeep Shradchandra Thakur & Ors. ... Respondents.

**WITH
CIVIL APPLICATION NO. 36 OF 2016
IN
PIL NO. 89 OF 2005**

Hiranandani Healthcare Pvt. Ltd. through
Signatory Dr. Bipin Chevale ... Applicant.

V/s.

Sandeep Shradchandra Thakur & Ors. ... Respondents.

**WITH
WRIT PETITION NO. 4962 OF 2006**

Shri Ramchandra Sharma ... Petitioner.

V/s.

The Dean ... Respondent.

Mr. Sandeep S. Thakur, the Petitioner-in- person in PIL.

Mr. Vishal Thadani, AGP for the State.

Mr. S. G.Hegde a/w. Mr. C. M. Lokesh for Respondent No.2.

Ms. Smita Gaidhani, Advocate for Respondent No.3.

Mr. Nishant Tripathi a/w. Viabhav Bandgar i/by M. Tripathi & Co. for Respondent No. 13.

Mr. S. V. Marne, Advocate for Respondent No. 17.

Mr. Atul Damle, Sr. Counsel a/w. Adarsh Saxena a/w. Anush Mathkar i/by Cyril Amarchand Mangaldas for Respondent No. 18.

**CORAM : V. M. KANADE AND
Ms. NUTAN D. SARDESSAI,JJ.**

DATE : 16th NOVEMBER, 2016

P.C. :

1 Heard Mr. Sandeep Thakur, the Petitioner appearing-in-person, who has filed this PIL under Article 226 of the Constitution of India. By this petition, the Petitioner seeks the following reliefs :

That this Hon'ble Court be pleased to issue a Writ of mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of the Constitution of India directing Respondent No. 2 :

(a) to cancel the Lease Deed dated 12.4.1990 and agreements to lease dated 2.8.2002 and forthwith take back the possession of the lands and building leased and agreed to be leased to Respondent No.3 and use the same for running a public Charitable hospital on the norms to be fixed by Respondent No.2;

(b) this Hon'ble Court be pleased to issue a writ of mandamus under Article 226 of the Constitution of India and direct Respondent No. 2 :

(i) to frame norms for allotting land under Chapter -V of the New Bombay Disposal of Lands Regulations, 1975 in general and for public charitable hospitals in particular. As far as public charitable hospitals are concerned, the said norms, inter alia, should include norms, more particularly norms relating to charging of fees to the patients as set out in the statement annexed hereto and marked Exhibit "J" to this Petition;

(ii) after fixing the above stated norms, to examine the Accounts of Respondent No.3 sine 1990 from the independent Chartered Accountant to be appointed by Respondent No.2 to determine the excess amount collected by any such hospital and to recover such amount from such hospital including Respondent No. 3 and use it for meeting the cost of any drugs and medicines that may be required by poor patients admitted to free beds in such hospital;

(iii) to constitute a permanent committee to regularly monitor the affairs of all the public charitable trusts to whom the lands have been allotted by Respondent No.2 for running public charitable hospitals for ensuring compliance with norms fixed by Respondent No.2 and to work out necessary details of manner of working of the said committee including submission of reports at fixed intervals not exceeding a year and also to empower the said committee to investigate specific complaints, if any, against such hospitals;

(iv) to lay down a simple and fair procedure to cancel the allotment of land to public charitable hospitals if it is found that such hospitals are violating the norms prescribed by Respondent No. 2.

2 It is alleged by the Petitioner that CIDCO had allotted the land which was reserved for construction of hospitals by the Navi Mumbai Municipal Corporation by a lease deed dated 12.04.1990, which was renewed on 02.08.2002. It is contended by Shri Thakkur, the petitioner-in - person that there has been violation of the terms and conditions of the lease and without taking permission from the NMMC, the CIDCO has given two floors of the building which is constructed by them to the Respondent No. 18- Fortis Hiranandani Hospital for starting a super speciality hospital. It is submitted that fact of illegality committed, perhaps of the violation of the terms and conditions of the lease, came to the notice of the Petitioner after some time and immediately thereafter, the Petition was filed in the year 2005. In the meantime, during the pendency of the petition several orders have been passed and the State Government had been directed to take decision. It appears that some decision has been taken by the State Government and has been communicated to the NMMC. It appears that the State Government has informed the NMMC to cancel the agreement which they have entered into with Respondent No.18.

3 In view of the subsequent developments, many of the reliefs claimed by the Petitioner do not survive. Consequently, the relief claimed by the Petitioner for

cancellation of the lease deed dated 12.04.1990 is concerned, in our humble view there is a gross delay in approaching this court, seeking relief of cancellation of the lease deed. The contention of Shri Thakur, the Petitioner-in-person, that he came to know about the breach of the terms and conditions of the lease at a later stage, cannot be a ground for condonation of the delay in filing this petition.

4 So far as the prayer clause (b) - (i) to (iv) are concerned, it is open for the CIDCO to consider the said reliefs and take a decision in accordance with the law.

5 The Petition, therefore, practically has worked itself out. It is clarified that it is open for the NMMC as well as Respondent No. 18 to challenge the decision taken by the State Government before the appropriate forum.

6 This Public Interest Litigation is disposed of in the aforesaid terms.

7 So far as the civil application which is taken out by the Respondent No. 18 in this PIL is concerned, in view of the above order, it does not survive and it is disposed of accordingly. However, it is open for the NMMC to take such steps to challenge the orders passed by the State Government, if so advised.

8 The civil applications which are taken out by the Petitioner-in-person are concerned, it is open for him to file a separate petition or PIL concerning the issue raised in that civil applications.

9 Interim protection granted in favour of Respondent No. 18 to continue for a period of four weeks.

10 All other civil applications do not survive and the same are disposed of.

11 Writ petition No. 4962 of 2006 is de-tagged and adjourned for four weeks.

(Ms.NUTAN D.SARDESSAI,J)

(V.M.KANADE,J.)

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