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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L.) NO.3141 OF 2016

M. Visvesvaraya Industrial Research & Development Centre (MVIRDC) & Anr. … Petitioners
Versus
State of Maharashtra & Ors. … Respondents

Mr. Ravi Kadam, Senior Counsel a/w Ms. Deepa Chavan, Ms. Tanmayi Gadre, Mr. Ajay Khatlawala, Mr. Damodar Desai and Mr. Meti Sampat i/by M/s. Little & Co. for the Petitioners.

Mr. A.Y. Sakhare, Senior Counsel a/w Mr. A.I. Patel, Additional Government Pleader for the Respondents - State.

Mr. Vivek Kantawala a/w Mr. Amey Patil i/by Vivek Kantawala & Co. for the Intervenor.

Mr. M.D. Nagle i/by Shital Kasar & Kawade for Intervenor.

CORAM : A.S. OKA &
ANUJA PRABHUDESSAI, JJ.

DATE : 30th NOVEMBER, 2016

P.C.

1 Heard the learned senior counsel representing the Petitioners and the learned Senior Counsel representing the Respondents. The challenge in this Petition under Article 226 of the Constitution of India is firstly to the order dated 24th November, 2016 passed by the District Collector of Mumbai which is an order of resumption of the property let out to the Petitioners which is admittedly

a property vesting in the State Government. There is also a challenge to the demands made in the Exhibit – P which is dated 18th October, 2016 and Exhibit – S which is dated 3rd November, 2016. Exhibit – P is issued by the District Collector.

2 As far as the challenge to Exhibits – P and S is concerned, our attention is invited to paragraph 4 of the impugned order dated 24th November, 2016. In the said order which is impugned in this Petition the Collector has observed that as regards monetary demand mentioned therein, a Committee has been constituted and after receipt of the report of the Committee further steps for recovery will be taken. The learned senior counsel representing the Respondents on instructions of Shri Jayant V. Nikam, Superintendent, Mumbai City Survey and Land Records states that in view of the observations made in paragraph 4 of the said order, the demand which is subject matter of Exhibits – P and S will not be executed till the report of the Committee appointed in that behalf is received by the State Government. We accept the statement. In view of the statement as well as the observation recorded in paragraph 4 of the impugned order, at this stage, it is not necessary to entertain the challenge to Exhibits - P and S. The learned senior counsel appearing for the Petitioners on instructions states that the Petitioners are not pressing the said challenge at this stage.

3 Now coming to the order dated 24th November, 2016 the learned senior counsel representing the Respondents on instructions of the aforesaid officer states that the impugned order has been passed in exercise of powers under the Maharashtra Land Revenue Code, 1966 (for short "the said Code"). He pointed out that an Appeal will lie against the said order before the Maharashtra Revenue Tribunal in accordance with Section 274 of the said Code. We accept the said statement.

4 Thus, efficacious remedy is available to the Petitioners to challenge the said order before the Maharashtra Revenue Tribunal.

5 There is one more controversy in this Petition. There are affidavits placed on record by the Petitioners contending that there is a violation of ad-interim order dated 24th November, 2016 passed in this Writ Petition.

6 The learned senior counsel appearing for the Respondents on the instructions of the aforesaid officer states that status-quo which was prevailing before passing the impugned order dated 24th November, 2016 will be maintained for a period of one week from

today. The learned senior counsel appearing for the Respondent states that there was no sufficient time available to the State Government for dealing with the affidavits tendered by the Petitioners alleging breach of the ad-interim order.

7 In our view, as the challenge in this Petition is now confined to the order dated 24^{th} November, 2016 and as an efficacious remedy is available to challenge the said order, it is not necessary to keep the Petition pending. If according to the case of the Petitioners, there is a breach committed of the ad-interim order, they are free to take out appropriate proceedings in that behalf and all contentions of the parties in that behalf are kept open. There is a Chamber Summons tendered by the learned counsel representing the Employees Union of the first Petitioner. As we are disposing of the Petition, it is not necessary to entertain the said Chamber Summons.

8 Considering the fact that without granting even a reasonable time to the Petitioners to challenge the impugned order, the same was attempted to be executed, we propose to protect the Petitioners for a reasonable time to enable the Petitioners to move the Maharashtra Revenue Tribunal and seek appropriate relief. We propose to grant reasonable protection to the Petitioners in the event the order passed on the prayer for ad-interim relief is adverse to them.

9 Hence, we dispose of the Petition by passing the following order :-

ORDER

(i) In view of the statement made in paragraph 4 of the impugned order dated 24th November, 2016 and the statements made by the learned senior counsel appearing for the Respondents on instructions, the Petitioners are not pressing the Petition as far as the challenge to Exhibits – P and S is concerned;

(ii) The challenge to the impugned order dated 24th November, 2016 is not entertained in view of the availability of an efficacious remedy of preferring an Appeal under Section 274 of the Maharashtra Land Revenue Code, 1966;

(iii) The learned senior counsel appearing for the Petitioners states that the Appeal will be preferred within a period of one week from today;

(iv) We accept the said statement;

(v) In view of this statement, we direct that status-quo which was operating before passing of the order dated 24th November, 2016 shall be maintained by the Respondents till the date on which order is passed by the Appellate Authority on the prayer for ad-interim relief which may be made by the Petitioners;

(vi) We make it clear that if the Petitioners fail to prefer an Appeal within a period of one week, the protection granted as aforesaid shall cease to apply and will stand vacated;

(vii) We request the Maharashtra Revenue Tribunal to consider the prayer which may be made by the Petitioners for grant of ad-interim relief as expeditiously as possible and preferably within a period of two weeks from the date on which the Appeal is preferred by the Petitioners;

(viii) If the order passed on the prayer for ad-interim relief be adverse to the Petitioners, the protection granted as aforesaid will continue to operate for a period of two weeks from the date on which the order is passed by the Appellate Authority;

(ix) We also make it clear that the order directing the maintenance of status-quo which was prevailing before passing of the impugned order will not come in the way of the Respondents from initiating action in case any breach is committed by the Petitioners.

(x) All contentions on merits are kept open;

(xi) As observed earlier, if according to the case of the Petitioners, there is a breach committed of ad-interim relief dated 24th November, 2016, it will be open for the Petitioners to take out appropriate proceedings in accordance with law;

(xii) Chamber Summons tendered across the Bar is not entertained as the Petition is disposed of.

(ANUJA PRABHUDESSAI, J) **(A.S. OKA, J)**