

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 354 OF 2013

City and Industrial Development
Corporation of Maharashtra Limited
(CIDCO),

Through their Authorized Signatory,
Shri Sanjay K. Karhad, major,
having office at CIDCO Bhavan,
3rd floor, CBD Belapur,
Navi Mumbai 400 614.

..... Petitioners.

V e r s u s

Rashmi Constructions Pvt. Ltd.,
A Company incorporated under the
Indian Companies Act, 1956,
having their Office at Niteen Chambers,
Vasco-da-Gama, Goa.

Represented herein by their Director
Shri N. P. Vasu Niar.

..... Respondents

Shri A. Kantak, Advocate for the Petitioners.

Shri A. F. Diniz, Advocate for the Respondents.

CORAM: C. V. BHADNAG, J.
DATE: 11TH JANUARY, 2017.

ORAL JUDGMENT:

Heard Shri Kantak, the learned counsel for the
petitioners and Shri Diniz, the learned counsel for the
respondents.

2. The petition challenges the order dated 16/2/2013 passed by the Executing Court by which the application Exhibit 55 filed by the petitioner/Decree Holders for summoning Ms. Manda Bhadekar, the former Director of the respondent/company for being examined in the Execution Case has been rejected. The application was purportedly filed under Order 21 Rule 41 of C.P.C. The trial Court has dismissed the application by the impugned order dated 16/2/2013 inter alia on the ground that the application was not filed by a person who was authorized to file the same and that Ms. Manda Bandekar was only a formal director.

3. It is undisputed that since after the filing of the petition Ms. M. Bandekar has expired on 13/1/2015. In such circumstances, the prayer for summoning of Ms. Manda Bandekar for being examined does not survive. It is further undisputed that the petitioner has now filed an application before the Executing Court seeking summons to Mr. Narayan Bandekar which is pending before the Executing Court. The Executing Court has kept that application in abeyance on

account of the pendency of the present petition. Be that as it may, the present petition has become infructuous and as such the same is disposed of, with no order as to costs. Needless to mention that the Executing Court shall decide the application dated 4/5/2013, in the context of the provisions of Order 21 Rule 41 of C.P.C and in accordance with law. It is made clear that the Executing Court shall not be influenced by the observations made in the impugned order dated 16/2/2013.

C. V. BHADANG, J.

Ap/-