

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9772 OF 2015
WITH
CIVIL APPLICATION NO. 1576 OF 2016
IN
WRIT PETITION NO. 9772 OF 2015

M/s. R. G. Sanap Construction Co. ... Petitioner
Vs.
Nashik Municipal Corporation & Ors. ... Respondents

.....
Mr. D. G. Dhanure for the Petitioner/Applicant.
Mr. Shekhar Jagtap i/b. J. Shekhar & Co. for Respondent No.1.
.....

CORAM : B. R. GAVAI AND
M. S. KARNIK, JJ.

DATE : AUGUST 07, 2017.

P.C. :

1. The Petition basically challenges the termination of a contract by respondent no.1.
2. By now, it is a settled law that this Court would be very slow in interfering in contractual matters, even if one of the parties to the contract is a State or an organization of State. Reliance in this respect could be placed on the judgment of the Apex Court in the case of *Radhakrishna Agarwal & Others vs State of Bihar & Others*, reported in *AIR 1977 SC 1496*. The law laid down in the said case has been consistently followed by the Apex Court in a catena of judgments.

3. No doubt, if the petitioner would have been in a position to make out a case that the cancellation of contract was done in a *mala fide* manner and on an consideration condition so as to suit some another individual, we could have examined the impugned order on the ground of *mala fides*. However, for resting a Petition on the basis of *mala fides*, it is necessary for the petitioner to implead the persons, against whom the *mala fides* are attributed, in their personal capacity and also to make specific averments with regard to *mala fides*.

4. Though we have given sufficient time to the learned counsel for the petitioner to point out the specific allegations in that regard in the Petition, he has not been in a position to do so. As such, that ground would also not be available in the present case.

5. The Petition is therefore dismissed, relegating the petitioner to the alternative remedy available to him in law.

6. However, since the petitioner was, on erroneous legal advise, prosecuting an erroneous remedy, we direct that the petitioner would be entitled to benefit under section 14 of the Limitation Act if he chooses to take recourse to the appropriate remedy available to him in law.

7. In view of dismissal of the Writ Petition, the pending Civil Application also stands disposed of.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)