

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11094 OF 2016

M/s. Talaja Manufacturers Association & Ors. .. Petitioners
Vs
The State of Maharashtra and Others. .. Respondents

—
Shri E.A. Sasi for the Petitioners.
Shri Manish M. Pabale, AGP for the Respondent State.
Shri Sarang S. Aradhye for the Respondent No.9.
—

CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ

DATED : 10TH JULY 2017

PC.

1. The prayer clauses (a) and (b) of this Writ Petition read
thus:

- “(a) This Hon'ble Court may be pleased to declare that those part of Talaja Industrial Areas coming within the limit of Maharashtra Industrial Development Corporation at Talaja i.e. (1) Navde (2) Pendhar (3) Padghe (4) Tondhare (5) Devicha Pada (6) Talaja Majkur (7) Ghot (8) Koyanarele, as shown in the Map Exhibit-D above, are the areas brought under Chapter-VI of the Maharashtra Industrial Development Act, 1961 and hence those areas are deemed to be Notified Area within the meaning of sub.Section (1A) of Section 40 of the Maharashtra Regional and Town Planning Act, 1966 wherein MIDC is the Special Planning Authority and the Local Authority;
- (b) This Hon'ble Court may be pleased to issue writ of mandamus or any other appropriate writ,

order or direction in the nature of mandamus, directing the concerned Respondents to exclude the MIDC Area of Taloja i.e. Taloja Industrial areas coming within the limit of Maharashtra Industrial Development Corporation at Taloja i.e. (1) Navde (2) Pendhar (3) Padghe (4) Tondhare (5) Devicha Pada (6) Taloja Majkur (7) Ghot (8) Koyanarele, shown in the Map Exhibit-D hereto.”

2. The prayer clause (c) is a consequential prayer wherein there is a consequential challenge to the Notification dated 26th September 2016 constituting the Municipal Corporation of the City of Panvel under the Maharashtra Municipal Corporation Act, 1949.

3. The prayer clauses (a) and (b) proceed on the footing that Sub-section (1-A) of Section 40 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the said Act”) applies to Villages (1) Navde (2) Pendhar (3) Padghe (4) Tondhare (5) Devicha Pada (6) Taloja Majkur (7) Ghot (8) Koyanarele.

4. Sub-sections (1) and (1-A) of Section 40 of the said Act read thus:

“(1) The State Government may, by notification in the Official Gazette, 3 [**] for any undeveloped area specified in the notification in this Act referred to as “the notified area” either –

(a) [constitute an authority consisting of] a Chairman, a Vice- Chairman, a member of the Maharashtra Legislative Assembly representing

- the notified area, one member representing the municipal area, if any, included in the notified area, the Deputy Director of Town Planning, and the Executive Engineer, Public Health Works Division, each having jurisdiction over the notified area, and an Officer not below the rank of an Assistant Collector; or
- (aa) appoint the Authority constituted under the Maharashtra Housing and Area Development Act, 1976, or]
 - (b) appoint any Development Authority declared under sub-section (3A) of section 113; 6[or
 - (c) appoint the Bombay Metropolitan Region Development Authority established under the Bombay Metropolitan Region Development Authority Act, 1974, to be the Special Planning Authority for developing the notified area].
- (1A) Notwithstanding anything contained in sub-section (1), any area where Chapter VI of the Maharashtra Industrial Development Act, 1961 (hereinafter, in this section, referred to as “the said Act”), applies, or any other area comprising Government land handed over to the Maharashtra Industrial Development Corporation established under section 3 of the said Act, shall be deemed to be “the notified area”; and the Maharashtra Development Corporation shall be the Special Planning Authority in respect of such notified area, and shall be, deemed to have been appointed as such under this section, for the purposes of this Act.”

5. In view of Sub-Section (1-A), we called upon the learned counsel appearing for the Petitioner to show any averment or any supporting document which establishes that Chapter VI of the Maharashtra Industrial Development Act, 1961 (for short “the said Act of 1961”) was applicable to the aforesaid eight villages or that the said

eight villages standing on the Government land were handed over to the MIDC. Admittedly, there are no such averments and no document is annexed in support of the said proposition. The challenge to the Notification constituting the Municipal Corporation of the City of Panvel is on the assumption that Section 40(1-A) of the said Act is applicable to the said eight villages.

6. Hence, as the Petition stands today, the same is completely misconceived and cannot be entertained. The Petition is, accordingly, rejected. However, if the Petitioners procure material to show that Sub-section (1-A) of Section 40 of the said Act is applicable to the said eight villages, it is for the Petitioners to make appropriate representation in that behalf to the State Government.

7. Civil Application does not survive and the same is disposed of.

(SMT.VIBHA KANKANWADI, J)

(A.S. OKA, J)