

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

QED Properties Private Limited & Anr. ..Petitioners
Vs.
State of Maharashtra & Ors. ..Respondents

Mr.Prashant Chawan with Mr.Ravindra Rajaram Chile for
Respondent Nos.2 and 3.

DATE : 31st JULY 2017

2. It appears that the State of Maharashtra had acquired land for construction of Bombay-Pune Expressway. It further appears that after construction of the Expressway, some surplus land was

available. Hence, the respondent No.2 decided to lease the said land to the private parties. For the said purpose, tenders were invited. It is not in dispute that in respect of one of the lands, which was tendered, the petitioners were the highest bidder and a Letter of Acceptance was issued to it on 9th March 2012. It appears that in pursuance thereof, the petitioners have also deposited substantial amount. However, since Lease Deeds were not executed by the respondent No.2, the petitioners addressed various communications and thereafter approached this Court by way of Writ Petition No.636 of 2015. By the impugned order, the petitioners have been informed that the Letter of Acceptance dated 9th March 2012 stands cancelled. Being aggrieved thereby, the present petition.

3. Mr.Naik, the learned Senior Counsel appearing on behalf of the petitioners, submits that the order impugned does not give any reason. He submits that though in the affidavit-in-reply some justification is given for cancellation of the tender, the same cannot be considered in view of the law laid down by the Apex Court in case of **Mohinder Singh Gill & Anr. v. The Chief Election Commissioner, New Delhi & Others** reported in AIR 1978 SUPREME COURT 851.

4. The learned Senior Counsel further submits that since the respondent No.2 is an organ of the State, it cannot be expected to act arbitrarily.

5. Mr.Chavan, learned Counsel appearing on behalf of the Respondent No.2, submits that it is the settled principle of law that the Court should be slow in interfering the contractual matters.

6. From the perusal of prayer clauses in petition, it would reveal that the petitioners are seeking a Writ of Mandamus from this Court while exercising jurisdiction under Article 226 of the Constitution of India, which would amount to decree of specific performance. The Apex Court right from the judgment in case of **Radhekrishna Agarwal vs. State of Bihar** reported in **AIR 1997 Supreme Court 1496** has held that even when one of the parties to a contract is a State or organ of a State, this Court would be slow in interfering with the contractual matters. The scope of interference in such matters has been very well laid down by the Apex Court in various decision. We do not find it necessary to go into the justification, as given by the respondent in affidavit-in-reply for cancellation of Lease Deed. We find that though the present petition is totally ill-advised, if we make any observation finding justification in the stand taken by the respondent for cancellation of Lease Deed, it would prejudice the rights of the petitioners, if any, if under a correct advice, it proposes to sue the respondents either for specific performance of contract or for damages suffered.

7. In that view of the matter, no case is made out for interference under Article 226 of the Constitution of India. Therefore, the writ petition is rejected.

8. At this stage, Mr.Naik, the learned Senior Counsel, pressed for extension of ad-interim order. In the light of the view we have taken in the order, we are not inclined to grant extension. Therefore, this prayer is rejected.

[RIYAZ I. CHAGLA J.]

[B.R. GAVAI, J.]