

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

**COMPANY APPLICATION NO. 589 OF 2017
IN
COMPANY PETITION NO. 219 OF 2011**

Gaia Developers Private Limited .. Applicant

In the matter between :

Punjab National Bank .. Petitioner

Vs.

MCS Limited & Anr. .. Respondents

Mr. Vishal Kanade a/w. Mr. Tushar A. Goradia and Ms. Dipti Shah i/b
Tushar A. Goradia for applicant.

Mr. Vinod Sharma, official liquidator present.

**CORAM : K.R.SHRIRAM, J.
DATE : 22ND DECEMBER 2017**

P.C.

1 This application is to direct the official liquidator to execute and register a Deed of Assignment granting leasehold rights in connection with all that piece and parcel of land being Plot No. 93, Marol Industrial Area, Village Kondivita, Taluka Andheri, District Mumbai Suburban containing by measurement 1000 sq. meters or thereabouts together with a factory building known as 'Shri Padmavati Bhavan' and other structures admeasuring 10750 sq. ft. built-up area (the said plot) or thereabouts in favour of applicant for the residual period.

2 The petition in which this application has been taken out was lodged on or about 26th May 2011. The petition was admitted on 2nd March 2012 and the final order of winding up was passed on 28th January 2015. It is the case of applicant that on 13th August 2007, Memorandum of Understanding (MOU) was entered into between applicant and the company (in liquidation) under which the company (in liquidation) agreed to assign all its leasehold rights/interest in connection with the said plot for a consideration of Rs. 12 crores. As it appears from the averments in paragraph 9 of the application, the entire amount of Rs.12 crores has been paid over to the company (in liquidation). At Exh.'G' is the certified copy of extract of resolution passed by the company (in liquidation) at the meeting of Board of Directors held on 19th June 2007 whereby the company had resolved to authorize one Mr. Sourabh Rateria to sign and execute the Deed of Assignment. On 13th June 2008, order/NOC/consent was granted by MIDC in favour of applicant.

4 On 31st July 2008, Deed of Assignment was executed between applicant and company (in liquidation). Property, under a Government policy, was to get certain concession on stamp duties. The parties tried to get these concessions and therefore registration and payment of stamp duty was delayed. The Deed of Assignment, though executed, was insufficiently stamped and not registered.

5 It is the case of applicant that since the assignment has taken place even much before the company petition was lodged, the Court should direct the liquidator to execute and register the Deed of Assignment. Mr. Kanade for applicant, on instructions, states that applicant undertakes to pay the entire stamp duty, registration charges and penalty and interest, if any, to the concerned authorities. MIDC issued a letter dated 29th November 2017, basically confirming what applicant has stated in the application though not in so many words. It does appear that assignment had, in fact, taken place much before the petition was filed and MIDC has accorded its no objection vide order dated 13th June 2008 for transferring/assigning the lease in favour of applicant. The said letter has been brought on record by applicant through an affidavit of one Bharat Vasandani affirmed on 4th December 2017.

6 The official liquidator has filed an affidavit in reply stating that since the transactions are prior to the company being wound up, he is unable to offer much assistance.

7 I have considered the application, the documents annexed thereto and further affidavit filed by applicant through which they have brought on record a letter dated 29th November 2017 issued by MIDC. I am satisfied that the relief sought in the application has to be granted. The undertaking,

as noted above, is accepted as an undertaking to this Court.

8 The application stands allowed in terms of prayer clause (a) and accordingly disposed.

(K.R. SHRIRAM, J.)