

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 524 OF 2018

IN

WRIT PETITION NO. 10307 OF 2009

WITH

CIVIL APPLICATION NO. 525 OF 2018

IN

WRIT PETITION NO. 10307 OF 2009

M/s.J.H.Bhambani

.. Applicant/ Petitioner

Vs.

State of Maharashtra and ors.

.. Respondents

Mr.Vipul K. Bodhare i/b Mr.A.M.Joshi, for Applicant/Petitioner.
Mrs.M.P. Thakur, AGP for Respondents No. 1 & 3 – State.
Mr.Prashant Chawan a/w Ms.Chaitali Kandare i/b Navdeep Vora
and Associates, for Respondent No.2.

CORAM : R.M.SAVANT &

M.S.KARNIK, JJ.

DATE : 17th SEPTEMBER, 2018

P.C. :

. The original Petitioner has filed the above Civil Applications. Insofar as Civil Application No. 524 of 2018 is concerned, the same has been filed seeking direction to the

Respondent – Corporation to refund the amount of Rs. 3 lacs with accumulated interest which is lying with the Respondent – Corporation vide FDR No. 1307039 and having matured on 30/10/2006. The 2nd prayer is virtually on the same lines as the 1st prayer which we have adverted to hereinabove.

2. Insofar as Civil Application No. 525 of 2018 is concerned, the same has been filed seeking amendments in the above Writ Petition by way of incorporation of paragraphs 22-A to 22-H which are shown from page No. 9 to page No. 17 of the Civil Application. Thereafter incorporation of additional grounds by way of ground B -1 to B-2 i.e. from page 17 to page 20 and addition of prayers being prayers E-1 to E-3. Insofar as prayer clause E-1 is concerned, by the said prayer, the Petitioner seeks damages as specified in paragraphs 22-A to 22-H along with interest @ 18% on such amount. A reading of paragraph 22-H which is sought to be incorporated discloses that the Petitioner claims damages in the sum of Rs. 1 Crore from various departments of the Respondent – Corporation in respect

of which damages according to the Petitioner, representation was made by the Petitioner dated 19/06/2010 to the Respondent – Corporation. Insofar as the said prayer is concerned, we are of the view that the relief sought by way of damages cannot be adjudicated by us in our writ jurisdiction under Article 226 of the Constitution of India as various factual aspects would be required to be gone into. Hence, insofar as prayer clause E-1 is concerned, the Petitioner may file appropriate proceedings to claim the said relief in the appropriate Court. However, we deem it appropriate to permit the Petitioner to incorporate prayer clause E-2 to E-3 which is a challenge raised to the constitutionality of Section 51 of MIDC Act. We are therefore of the view that paragraphs 22D to 22-H have now become redundant in view of the fact that the amendment sought vide prayer E-1 is not being granted by us.

3. The Applicant/Petitioner would be entitled to amend the Petition to incorporate the other paragraphs and grounds save and except paragraphs 22-D, 22-E, 22-F, 22-G, 22-H and

prayer clause E-1. Amendment to be carried out within 4 weeks from date and amended copy to be served on the other side. The above Civil Application No. 525 of 2018 is allowed to the aforesaid extent and disposed of.

4. Insofar as Civil Application No. 524 of 2018 is concerned, the learned Counsel appearing for Respondent – Corporation Mr.P. P. Chawan seeks time to put in a reply. Hence, at his request adjourned to 08/10/2018.

(M.S.KARNIK, J.)

(R.M.SAVANT, J.)