

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3652 OF 2018

M/S PRAJ WIRE MANUFACTURING PVT LTD.,
THROUGH ITS AUTHORIZED SIGNATORY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Talhar Ajay G.
AGP for Respondent No. 1 : Mr. S. P. Tiwari
Advocate for Respondents No. 2 to 4 :
Mr. S. S. Deve

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CORAM: S. V. GANGAPURWALA &
ANIL S. KILOR, JJ.

DATE: 03rd SEPTEMBER, 2019

PER COURT:

1. Mr. Talhar, learned counsel for the petitioner submits that the petitioner had applied for allotment of 40,000 Sq.Mtrs. of the plot with MIDC at Nardana industrial area. The petitioner was allotted plot of 26,000 Sq.Mtrs. on 20.09.2011. The sanction order was issued to the extent of 26,000 Sq.Mtrs. on 29.11.2011.

2. Mr. Talhar, learned counsel for the petitioner further submits that requirement of the

project was 40,000 Sq.Mtrs of land. The petitioner was requested by the authorities to submit the fresh application for allotment of remaining 14,000 Sq.Mtrs. of the land. Pursuant to the application made by the petitioner, 14,000 Sq.Mtrs. additional land was allotted to the petitioner and the same was handed over to the petitioner on 16.04.2014. The petitioner thereafter filed an application for amalgamation of the plots in June-2017. The application is not decided by the respondent and on 02.01.2018 order is passed by respondent no. 4 cancelling the allotment of the plot B-9 at Nardana MIDC area. The learned counsel submits that, if the application for amalgamation would have been decided, then the petitioner would have taken effective steps to proceed further with the project.

3. Mr. Deve, learned counsel for respondents no. 2 to 4 submits that the petitioner was initially sanctioned plot of 26,000 Sq.Mtrs. The

request of the petitioner was placed before the committee. Thereafter, at the request of the petitioner additional plot of 14,000 Sq.Mtrs. was sanctioned and was handed over to the petitioner on 17.07.2013. The petitioner did not develop the plot no. B-9 admeasuring 26,000 Sq.Mtrs. The petitioner has submitted building plan seeking approval after the notice dated 02.01.2018. The respondent has rightly initiated action as per the Agreement to Lease dated 26.06.2012, more particularly, clause 3(a), (c) and (d) and the Circular dated 06.03.2013. Though, the petitioner had given application for amalgamation there was no impediment for the petitioner to carry out the construction on 26,000 Sq.Mtrs. of the area. The construction has to be completed within five (05) years of the allotment of the plot. The petitioner failed to construct the same.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The factual matrix as narrated above is not

disputed. No doubt, the petitioner had applied for the allotment of 40,000 Sq.Mtrs. of the industrial land for setting up of his industry as per his project. The petitioner was allotted 26,000 Sq.Mtrs. of the land bearing plot no. B-9 at Nardana industrial area. It also appears that the petitioner had requested for allotment of additional land of 14,000 Sq.Mtrs. And the said request was considered by the MIDC and was allotted additional 14,000 Sq.Mtrs of the land. The registered Lease Deed was also executed to that effect and the petitioner has paid the consideration amount.

6. It is fact that the petitioner did not take any steps for constructing 26,000 Sq. Mtrs of the land. It further appears that the petitioner had given an application for amalgamation of both the plots on 02.06.2017, and the said application is pending consideration with the respondents / MIDC.

7. The respondents in the affidavit admits that the petitioner made huge investment and the

request of the petitioner would be only considered in accordance with the Rules and Regulations. Paragraph no. 11 of the affidavit in reply on behalf of respondents no. 2 to 4 reads thus -

"11. As regards para No. 15-B and 15-C the answering respondent corporation is established for orderly development of industries since as per the document on record it appears that the petitioner made huge investment the request of the petitioner will be considered in accordance with rules and regulations, but it is a matter of record the petitioner herein did not made the construction on plot No. B-9 within stipulated period of time."

8. In view of the fact that respondents in their affidavit has accepted that the petitioner made huge investment and the request of the petitioner would be considered in accordance with the Rules and Regulations, we pass the following order.

9. Respondents / MIDC shall decide the application filed by the petitioner for amalgamation of the plots dated 02.06.2017 on its own merits, in accordance with its Rules and Regulations, expeditiously and preferably within a period of three (03) months.

10. The order cancelling the allotment of plot B-9 shall not be acted upon and shall not be operated till the decision is taken by the respondents / MIDC on the application of the petitioner for amalgamation of plots.

11. In case, the respondents / MIDC, accepts the application of the petitioner for amalgamation of the plots, then certainly the impugned order cancelling the allotment would axiomatically stand set aside.

12. In case the application of the petitioner is not favourably considered by the respondents / MIDC, then the petitioner will have a fresh cause to agitate. In that event, all contentions of respective parties are kept open.

13. Writ Petition stands disposed of accordingly.
No costs.

[ANIL S. KILOR, J.] [S. V. GANGAPURWALA, J.]

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