

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8328 OF 2017

Bombay Rayon Fashion Limited
& Anr.

.... Petitioners

Vs.

Maharashtra Industrial Development
Corporation

.... Respondent

Mr. Cyrus Ardeshir with with Mr. Priyank Kapadia,
Ms Anuja Jhunjhunwala & Ms Jinal Shah i/by M. Mulla
Associates for the Petitioners.

Mr. Milind Sathe, Senior Advocate, with Mr. Madhukar
Kalzunkar, Mr. Navdeep Vora & Ms Chaitali Kandare
i/by Navdeep Vora & Associates for the Respondent.

CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.

DATE : SEPTEMBER 03, 2019

P.C:

1. After this writ petition was heard for some time, we found that there is a claim of the petitioners and by which they say that they have not failed to carry out their obligation under an arrangement or a contract with the Maharashtra Industrial Development Corporation ("**MIDC**"). They say that they have developed substantial part of the leased or allotted property save and except one site in Kagal, District Kolhapur and that also there were reasons which are not attributable only to the petitioners.

2. The MIDC has filed a detailed affidavit and denied such assertions and has said that the impugned communication has been rightly issued after the petitioners failed to develop the property within the time stipulated in the arrangement. The arrangement is terminated in 2017 whereas the allotment dates back to 2011.

3. In writ jurisdiction, we do not think that such arrangements which are purely contractual can be considered when the disputes in relation thereto are factual. There is an assertion on one side and there is a denial on the other. The petitioners will have to establish and prove the case or claim as set out in the petition and also show that the assertions to the contrary are baseless and would not therefore enable termination of the contract. The petitioners would after establishing and proving all this alone be entitled to any relief. Thus, the petitioners can avail of the remedy by filing a Suit in a competent Civil Court.

4. To enable the petitioners to file such a Suit and to obtain the relief as asserted, we continue the ad-interim order passed in this writ petition for six (6) weeks. No further extension will be granted by this Court. The Trial Court is also not bound to continue the same and it must take a decision, uninfluenced by any orders in the writ petition, on the merits of

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any application made by the petitioners and strictly in accordance with law. All contentions in relation to the claims are kept open. The writ petition is disposed of.

(G.S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)