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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1 OF 2019
IN
APPEAL FROM ORDER NO. 36 OF 2020

Bombay Rayon Fashion Limited and Anr. ... Applicants/
Appellants

V/s

Maharashtra Industrial Development Corporation ... Respondent.

Mr. Ashish Kamat a/w. Ms. Priyanka Kapadia, Ms. Anuja Jhunjhunwalla
i/b M/s. M. Mulla Associates for the Applicants.

Mr. Milind Sathe, Senior Counsel a/w Mr. Prashant Chawan, Ms. Chaitali
Kandare, Ms. Shivani Shah for the Respondents.

CORAM : A. S. GADKARI, J.
DATE : 4th MARCH, 2020

P. C. :

1. Heard learned counsel for both the parties.
2. By the present Appeal, the appellants have impugned Order dated 11th December 2019 passed below Exhibit-5 in Special Civil Suit No. 359 of 2019, by the learned Civil Judge, Senior Division, Kolhapur.
3. By an Order of Allotment dated 17th December 2010, the respondent-Corporation has allotted 373570 square meters of land for establishing an Industry on the said plot of land to the Appellant. As per clause 4(c) of the said Order of allotment, the applicants/appellants were to submit the plan and specifications of the proposed factory building duly approved from the Executive Engineer of the said Industrial area and

complete the said building in accordance with approved plans and was to obtain a completion certificate from the Executive Engineer of the said Industrial area within a period of five years. It is undisputed fact that, the period of five years for establishing the said Industry by the appellant was the essence of contract.

4. The record further indicates that, the applicants/appellants did not comply with the Rules and Regulations prescribed by the respondent-Corporation as per their 'MIDC (Disposal of Land) Regulation 1975'. In the premise on 9th May 2017, the respondent-Corporation issued Notice for taking possession of the suit plot from the appellants. Though, the applicants/appellants have deposited the alleged lease premium, it is an admitted fact on record that, till today the applicants/appellants have failed to establish Industry on the said piece of land. Various reasons are cited by the applicants/appellants in not even starting with the said project. The said reasons given by the applicants/appellants in his plaint so also in application below Exhibit-5 are not germane for deciding the present application.

5. Mr. Sathe, learned counsel for the respondent-Corporation submitted that, the appellants by depicting a picture, to generate employment for 2000 people, had got the allotment of suit land which approximately admeasures about 100 Acres. He further submitted that, if the respondent-Corporation conducts auction of the said property today, it will be benefited for revenue of about 180 crores and if a new Industry is established on the said plot of land, it would generate near about 10,000 employment.

6. It is to be noted here that, in the prayer clause of the plaint, the

appellants have alternatively prayed for refund of premium paid by them and have also claimed damages of Rs.200 Crores from the Respondent-Corporation. It is thus clear that, no irreparable loss or harm would be caused to the applicants/appellants, if injunction is not granted in its favour and the alleged harm or loss can be compensated in terms of money, as per the prayers of the appellants in the plaint itself.

7. In view of the above, no prima facie case is made out by the applicants/appellants. Balance of convenience does not lie in favour of the applicants/appellants. No irreparable harm or loss would be caused to the applicants/appellants, if injunction is not granted in its favour. In view thereof, interim relief is rejected.

Interim Application No.1 of 2019 is accordingly disposed off.

8. At this stage, learned counsel for the applicants/appellants, on instructions, submitted that, he intends to challenge the present Order before the Hon'ble Supreme Court and therefore ad-interim relief granted by this Court by Order dated 30th December 2019 may be continue for a period of six weeks from today.

Learned counsel appearing for the respondent-Corporation opposed the said prayer.

9. For the reasons stated herein above, the said prayer for continuation of ad-interim relief by the applicants/appellants is rejected.

(A. S. GADKARI, J.)