

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1755 OF 2017
AND
INTERIM APPLICATION NO.1236 OF 2021
AND
INTERIM APPLICATION NO.3038 OF 2020
AND
CIVIL APPLICATION NO.2956 OF 2016

M/s. F. A. Construction Engineers & Contractors ... Petitioner
Versus
Konkan Irrigation Development Corporation & Anr. ... Respondents

WITH
WRIT PETITION NO.1756 OF 2017
AND
INTERIM APPLICATION NO.1238 OF 2021
AND
INTERIM APPLICATION NO.3034 OF 2020
AND
CIVIL APPLICATION NO.2959 OF 2016

M/s. F. A. Construction Engineers & Contractors ... Petitioner
Versus
Konkan Irrigation Development Corporation & Ors. ... Respondents

WITH
WRIT PETITION NO.1758 OF 2017
AND
INTERIM APPLICATION NO.1237 OF 2021
AND
CIVIL APPLICATION NO.2960 OF 2016
AND
INTERIM APPLICATION NO.2874 OF 2019

M/s. F. A. Construction Engineers & Contractors ... Petitioner
Versus
Konkan Irrigation Development Corporation & Ors. ... Respondents

WITH
WRIT PETITION NO.13486 OF 2016
AND
INTERIM APPLICATION NO.1233 OF 2021
AND

INTERIM APPLICATION NO.3042 OF 2020

M/s. F. A. Construction Engineers & Contractors ... Petitioner
Versus
Konkan Irrigation Development Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO.1757 OF 2017
AND
INTERIM APPLICATION NO.1239 OF 2021
AND
CIVIL APPLICATION NO.2957 OF 2016
AND
INTERIM APPLICATION NO.3037 OF 2020**

M/s. F. A. Construction Engineers & Contractors ... Petitioner
Versus
Konkan Irrigation Development Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO.8429 OF 2015
AND
INTERIM APPLICATION (STAMP) NO.10488 OF 2021**

M/s. F. A. Construction Engineers & Contractors ... Petitioners
Versus
State of Maharashtra through Water Resources
Department, Mantralaya, Mumbai & Anr. ... Respondents

Mr. Anil Sakhare, Senior Advocate a/w Mr. Chidanand Kapil i/by Ms. Shilpa Kapil for Petitioners and Applicants in IA Nos.3038/2020, 3034/2020, 3037/2020, 2874/2019, 3042/2020, CAW Nos.2956/2016, 2959/2016, 2957/2016 and 2960 of 2016.

Mr. Rajiv Chavan, Senior Advocate a/w Mr. Dinesh B. Khaire, Mr. Avinash B. Avhad, Mr. Eeshan D. Khaire, for Respondents in Writ Petitions and Applicant in IA Nos.1236/2021, 1238/2021, 1237/2021, 1233/2021, 1239/2021 and IAST No.10488/2021.

Smt. S. D. Vyas, AGP for the Respondent - State.

**CORAM : UJJAL BHUYAN &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : JUNE 08, 2021

P.C. :

M/s. F. A. Construction Engineers and Contractors as the original petitioner has filed the related writ petitions.

2. Be it stated that M/s. F. A. Construction Engineers and Contractors was awarded a number of contracts by the Konkan Irrigation Development Corporation for construction of dam projects etc. On 23.09.2016, a government resolution was issued by the Government of Maharashtra through the Additional Chief Secretary, Water Resources Department for cancellation of all contracts relating to Konkan Irrigation Development Corporation's projects on the ground that an enquiry was being conducted in respect of such contracts by the Anti-Corruption Bureau.

3. Following the same, Konkan Irrigation Development Corporation through its competent officer issued notice dated 03.11.2016 and such other dates for termination of contract.

4. This led the original petitioner to file the related writ petitions questioning such notice for termination of contract. This Court passed interim order on 07.12.2016 and subsequent dates directing that the contracts awarded to the petitioner should not be allotted to any other party.

5. Konkan Irrigation Development Corporation and the other respondents have filed affidavit in reply. However, the interim orders passed by this Court have been continued.

6. It is for vacation of the interim orders that the related interim applications have been filed by the Konkan Irrigation Development Corporation and its officers. It is stated that on 19.06.2020, Anti-Corruption Bureau had informed the authority of Konkan Irrigation Development Corporation that the enquiry initiated in respect of its projects was closed.

Though some administrative irregularities were noticed, no sufficient evidence could be gathered to lodge a criminal complaint. Consequently, Anti-Corruption Bureau closed the enquiry.

7. Mr. Rajiv Chavan, learned senior counsel appearing for Konkan Irrigation Department Corporation fairly submits that notices for termination of contract were issued to the original petitioner because of the government resolution of the Government of Maharashtra ordering open ended enquiry through Anti-Corruption Bureau in respect of the projects executed through the Konkan Irrigation Development Corporation. Now Anti-Corruption Bureau has informed Konkan Irrigation Development Corporation that there are no materials to justify lodging of criminal complaint. Therefore, Anti-Corruption Bureau has closed the enquiry. In view of such closure of enquiry, there would not be any justification for continued stalling of the contractual work. He has referred to paragraphs 12 and 13 of the interim applications and submits that if the interim order is vacated, Konkan Irrigation Development Corporation would get the project executed within the shortest possible time to prevent further cost escalation either through the original petitioner or through an interested party.

8. Mr. Sakhare, learned senior counsel appearing for the original petitioner submits that in view of the stand taken by the Konkan Irrigation Development Corporation as expressed in paragraphs 12 and 13 of the interim applications, all the writ petitions and the connected applications may be disposed of so as to enable the Corporation to restart the contractual work through the original petitioner because the very foundation for issuing the notices for termination of contract no longer survives.

9. Submissions made by learned counsel for the parties have been considered.

10. At the outset we may extract the stand taken by Konkan Irrigation Development Corporation in paragraphs 12 and 13 of the interim application which reads as follows:-

“12. The applicants submit that the report of ACB does not point out any corruption grave irregularities or illegality in the execution of present project. Therefore, as the ACB has closed the enquiry the KIDC has taken a decision to initiate action in respect of administrative irregularities as pointed out by the ACB in its report. It is further submitted that during the pendency of open ACB inquiry the KIDC restructured the old policies and framed new policies so as to avoid any irregularities being committed during the execution of project. However, considering the larger public interest, it is immediate need of an hour to commence the project as early as possible and hence the present application has been filed. Hence, the present interim application has been filed on behalf of KIDC, to expeditiously dispose of the writ petition in accordance with law and to vacate the interim order so that the project can be executed as early as possible in the public interest, without further legal hindrance.

13. It is further submitted that if this Hon’ble Court vacates the interim relief, a judicious decision will be taken by KIDC to execute the project in the shortest possible time and taking into account that the decision taken by KIDC should not open any further litigation. The applicants therefore submit that the judicious decision would be taken in public interest to execute the present project, either through an interested party or through the petitioner on the same rates, terms and conditions of contract. Hence the present interim application has been filed on behalf of KIDC to expeditiously dispose of the Petition in accordance with law and to vacate the interim order dated 07.12.2016 hereto annexed as exhibit A-2 so that the project can be executed as early as possible in public interest.”

11. Having regard to the stand so taken, we modify the interim orders passed in the related writ petitions by giving liberty to Konkan Irrigation Development Corporation to execute the projects through the original petitioner or through an interested party by following the due process.

12. All the writ petitions and the accompanying interim applications and civil applications are accordingly disposed of.

(PRITHVIRAJ K. CHAVAN, J.)

(UJJAL BHUYAN, J.)