

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.15244 OF 2022

Kavita Industries

.. Petitioner

Versus

The Executive Engineer, MIDC & Ors.

.. Respondents

Mr.Mayank Bagla a/w Mr.Durgesh A. Rege for the petitioner.

Mr.Prashant Chavan, Counsel a/w Mr.Navdeep Vora for the respondent no.1-MIDC.

Mr.A.R.S. Baxi for the respondent nos.2 & 3.

Mr.Jagdish Aradwad (Reddy) for the respondent no.4.

Mr.M.P. Thakur, AGP for the respondent no.5-State.

CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.

DATE : 23rd December 2022

P.C.:-

. Rule. Mr.Chavan, learned counsel for the respondent no.1-MIDC waives service. Mr.Baxi, learned counsel for the respondent nos.2 & 3 waives service. Mr.Aradwad (Reddy), learned counsel for the respondent no.4 waives service. Ms.Thakur, learned AGP for the respondent no.5 waives service. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks a writ of mandamus against the respondent no.1 to immediately restore and reinstate the Water Supply to the premises described in prayer clause (a) of the petition and against the respondent nos.2 & 3 to immediately restore and reinstate the Electricity Supply to the premises described in prayer clause (b).

3. It is the case of the petitioner that the petitioner had entered into an agreement with the respondent no.4 for Job Work/Lease on 3rd May 2021 and by virtue of the said agreement, the petitioner is in possession of the writ premises.

4. The parties appear to have entered into a Leave and License Agreement annexed at Exhibit 'B' to the petition. The respondent no.4 appears to have terminated the said Leave and License Agreement. The petitioner has already filed a Civil Suit bearing Regular Civil Suit No.393 of 2022 against the respondent no.4 before the learned 2nd Joint Civil Judge, Senior Division, Panvel and has applied for interim relief.

5. By an order dated 5th December 2022, learned 2nd Joint Civil Judge, Senior Division issued a notice to the defendants and held that the submission regarding ex parte ad-interim relief is not considered.

6. It is the case of the petitioner that the respondent nos.1 to 3 have disconnected the water as well as the electricity supply respectively in the premises which are in occupation of the occupants of the petitioner under the said Leave and License Agreement on the request of the respondent no.4 Licensor.

7. Learned counsel for the respondent nos.2 & 3, on instructions, states that the electricity supply is disconnected on the request of respondent no.4.

8. Mr.Aradow (Reddy), learned counsel for the respondent no.1 states that the water connection is disconnected in view of the

respondent no.4 not having obtained any NOC from the respondent no.4 before entering into the Leave and License Agreement. He produced a copy of the correspondence between the respondent no.4 and the MIDC.

9. A perusal for the letter addressed by the MIDC on 15th November 2022, prima facie, indicates that the water connection is disconnected in view of the letter addressed by the respondent no.4. Be that as it may, if the respondent no.1 has any right to disconnect the water connection, the same can be considered by the Civil Court.

10. Since the respondent nos.1 to 3 are not the parties to the Civil Suit filed by the petitioner, the petitioner states that he will apply for impleadment of the respondent nos.1 to 3 as party-defendants to the said civil suit and also for the additional averments and the prayers.

11. The petitioner would be at liberty to file such application before the Civil Court. If any such application is made by the petitioner, the Civil Court to consider such application on its own merits.

12. The respondent no.4 has not admittedly filed any suit against the petitioner for evicting or for disconnecting water as well as electricity supply respectively.

13. We pass the following order :-

(i) The petitioner would be at liberty to apply for impleadment of the respondent nos.1 to 3 as party-defendants to the said civil suit bearing Regular Civil Suit No.393 of 2022.

(ii) If any such application is made by the petitioner, the Civil Court to consider the said application on its own merits and in accordance with law.

(iii) The respondent no.1 is directed to restore the water connection to the writ premises within 24 hours from today.

(iv) The respondent nos.2 & 3 are directed to restore the electricity supply to the writ premises within 24 hours from today.

(v) The water connection and electricity supply shall be restored for the time being for a period of eight weeks from today.

(vi) The petitioner to continue to pay the water as well as the electricity charges without prejudice to the rights and contentions of all the parties.

(vii) The respondent no.1 would be at liberty to adopt appropriate proceedings/action against the petitioner and the respondent no.4 in case of violation of the terms of the lease, if any.

(viii) It is made clear that this Court has not expressed any views on merits of the civil suit filed by the petitioner against the respondent no.4.

(ix) The respondent no.4 would be at liberty to file appropriate proceedings against the petitioner.

(x) The petitioner would be at liberty to apply for appropriate relief in the civil suit after impleadment of the respondent nos.1 to 3 as party-

defendants.

14. Learned counsel for the petitioner agrees to pay insurance charges for insurance of plant/machinery/equipment and stock in trade, if any, upto the value of Rs.75 lakhs without prejudice to the rights and contentions of the petitioner and the respondent no.4. Statement is accepted.

15. Learned counsel for the petitioner agrees that till the insurance policy is renewed, the petitioner would not carry out any business in the writ premises. The respondent no.4 agrees to give NOC if any for the purpose of the renewal of insurance without prejudice to the rights and contentions of the respondent no.4.

16. The petitioner agrees to pay the water as well as the electricity charges to the respondent no.1 and the respondent nos.2 & 3 respectively without prejudice to the rights and contentions of the parties.

17. Writ petition is disposed off. Rule is made absolute accordingly. No order as to costs.

M.M. SATHAYE, J.

R.D. DHANUKA, J.