

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10042 OF 2023

Rysha Multibrand Watch Store, A Partnership
Firm

...Petitioner

Versus

State of Maharashtra through Minister of
Industries & Ors

...Respondents

Mr Vishal Kanade, with *Vikas Kumbhar, Shruti Kumbhar, Karen Jeffries, i/b PV Nichani & Co, for the Petitioner.*

Ms PN Diwan, AGP, for Respondent Nos. 1 & 3.

Dr Birendra Saraf, AG, with *Akshay Karlekar, i/b Shreeyog Law Associates, for Respondent No. 2-MIDC.*

Mr Rahul Soman, *i/b Rajeev Sawant & Associates, for Respondent No. 4.*

Mr Mukesh Vashi, Senior Counsel, *i/b PY Shankar, with Sandhya Yadav, for Respondent No. 5.*

CORAM **G. S. Patel &
Neela Gokhale, JJ.**

DATED: **10th August 2023**

PC:-

1. Heard.

2. There is a dispute of long standing between the Petitioner, a watch store, and the 5th Respondent, a private entity, KPL Exports Private Limited. This relates to a structure on plot no. 4 of about

1800 sq mtrs at 'D' III Block, Maharashtra Industrial Development Corporation ("MIDC"), Village Akurdi, Taluka Haveli, District Pune.

3. Between these two parties there are at least three litigations. One is in the Small Causes Court where there is an eviction proceeding against the Petitioner. The Petitioner has separately sought specific performance in a Civil Court. There was a third proceeding for an injunction against MIDC from taking any action and, on account of a statutory bar or ouster of jurisdiction, an Interim Application in that suit was rejected.

4. The 5th Respondent is a permitted assignee of the allotment of this plot from MIDC. Before the 5th Respondent constructs or demolishes any structure, it needs MIDC permission. It simply sought MIDC permission on the ground that the structure in question at this plot (and in which structure the Petitioner has a watch shop) was dilapidated. The photographs shown by Mr Kanade for the Petitioner will not alter the factual position one way or the other and it is not possible for this Writ Court to assess structural audit reports absent a statutory framework. Those are after all expert documents. These are all therefore disputed questions of fact.

5. What is it that the Petitioner seeks against the only public authority concerned, i.e., MIDC? We note that MIDC has not undertaken the demolition. MIDC has not even ordered the demolition. MIDC has merely accepted the 5th Respondent's

application for permission to demolish. Obviously, any such demolition must be lawfully and in conformity with law. MIDC can hardly give permission to anybody to act otherwise than in accordance with law. It is precisely in pursuit of that permission, i.e., to act lawfully that the 5th Respondent even approached MIDC in the first place.

6. We are wholly unable to see why we should exercise our discretion under Article 226 of the Constitution of India in what appears to be a purely private civil and even contractual dispute. There is no failure pointed out on the part of the only public authority, MIDC.

7. It is insufficient to say that the powers of a Writ Court are very wide. It is true that they are. But this does not mean that the Writ Court will intervene even when there is no *prima facie* case made out of a failure to perform a statutory or a constitution duty by an instrumentality of the State. We are seeing no fault that can be attributed to the MIDC for granting permission to the 5th Respondent.

8. No reliefs are possible. The Writ Petition is rejected. There will be no order to costs.

(Neela Gokhale, J)

(G. S. Patel, J)