



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.11913 OF 2023

Indiabulls Industrial Infrastructure Limited & Another	..	Petitioners.
v/s.		
The State of Maharashtra & Others	..	Respondents.

Mr. Girish Godbole, Sr. Advocate with Mr. Karl Tamboly, Monisha Mane, Bijal Vora and Nishi Doshi i/b. Parinam Law Associates, for the Petitioners.
Dr. Birendra Saraf, Advocate General with Mr. Sujeet G. Karlekar, Mr. Akshay S. Karlekar i/b. Shree Yog Law Associates, for Respondent Nos.2 & 3- MIDC.

Dr. Birendra B. Saraf, Advocate General with Mr. P. P. Kakade, GP with Mr. V. M. Mali, AGP for Respondent-State.

**CORAM: SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ.**
DATED : 26th SEPTEMBER, 2023.

PC:-

Heard learned Senior Counsel Mr. Godbole for the Petitioners and learned Advocate General appearing for Respondent Nos.2 & 3, who are the main contesting parties.

2 This Petition challenges the Final Termination Notice dated 14th July, 2023 and also the Eviction Notice dated 18th July, 2023 based on the Final Termination Notice dated 14th July, 2023.

3 According to Mr. Godbole, learned Sr. Counsel for the

Petitioners, the main challenge is to the Final Termination Notice dated 14th July, 2023 and it rests primarily on two objections, namely – (1) Final Termination Notice dated 14th July, 2023 issued by the Regional Officer of Maharashtra Industrial Development Corporation (MIDC), Nashik is invalid as it is not issued with the approval of the Board of Directors and (2) even otherwise, the Final Termination Notice is not justified in the facts and circumstances of the case. He submits that in view of the above referred position and also considering the other objections, the grievance of the Petitioners could not have been considered and appropriately decided by the Eviction Officer and, therefore, it is necessary that some relief is granted by this Court to protect the interest of the Petitioners who have invested about Rs. 10,000 Crores in the land and are also share holders of the Company. He further submits that the Eviction Notice, questioned herein, is only in consequence of the Final Termination Notice and its legality or otherwise would depend upon the legality or otherwise of the Final Termination Notice and this is another reason why indulgence of this Court is necessary in the matter.

4 Dr. Saraf, learned Advocate General submits that all these objections can always be considered by the Eviction Officer. In support, he takes us through the provisions contained in Section 4 of the Maharashtra Government Premises (Eviction) Act, 1955(the 'Act'). He fairly submits that if the Petitioners are relegated to their remedy before the Eviction Officer, the Eviction Officer would exercise his power in terms of Section 4 of the said Act after giving his due consideration to all these objections and till then, the Final Termination Notice would not be acted upon.

5 In our view, the purpose of this Petition would stand served if the parties are relegated to the remedy available in law by directing them to remain present before the Eviction Officer appointed in terms of Section 3 of the Act and issuing necessary directions to the Competent Authority. However, there is one impediment before taking such step by this Court and it is about the Competent Authority adjudicating upon the issue of eviction being the same as the authority issuing Final Termination Notice dated 14th July, 2023.

6 At this stage, learned Advocate General submits on instructions, that as per the Notification dated 30th July, 1984 and also earlier Notification, not only the Regional Officer has been appointed as the Competent Authority but also an Executive Engineer of MIDC has been appointed as Competent Authority under Section 3 of the Act and, therefore, fresh Eviction Notice can be issued by the Executive Engineer so that further proceedings can take place before a different authority.

7 We find that the suggestion given by learned Advocate General is fair and needs to be accepted so as to comply with the requirements of law. Accordingly, we do accept it and direct the MIDC to appoint Executive Engineer as a Competent Officer in terms of Section 3 of the Act for adjudicating upon the issue of eviction of the Petitioners from the MIDC premises, within the parameters of Section 4 of the Act, which shall be done within a period of one week from the date of the order.

8 We further direct that the newly appointed Eviction Officer shall, in supersession of the earlier eviction notice, issue a fresh eviction

notice to the Petitioners calling upon them to make their fresh response in the matter.

9 We further direct the newly appointed Eviction Officer to grant appropriate hearing to the Petitioners in relation to the objections and explanations as regards their rights in the matter.

10 We grant liberty to the Petitioners to raise all objections including the objections relating to the Regional Officer having no authority to issue Final Termination Notice and the Final Termination Notice issued in the present case itself not being justified, as stated by us earlier. If any such objections are raised, they shall be decided as per law by the Eviction Officer.

11 We direct the newly appointed Eviction Officer to decide all objections relating to the issue of eviction of the Petitioners from the MIDC premises in accordance with law within a period of four weeks from the date of appearance of the Petitioners before him in response to fresh Eviction Notice to be issued to them and till then, the Final Termination Notice dated 14th July, 2023 and the possession notice dated 13th September, 2023 shall not be acted upon. In case of passing of any order adverse to the Petitioners, the Final Termination Notice and possession notice not be acted for a further period of two weeks from the date of such order.

12 All questions and contentions of the parties, including those relating to Maharashtra Government Premises (Eviction) Act, 1955, are kept open.

13 Writ Petition is disposed of on the above terms. No order as to costs.

(FIRDOSH P. POONIWALLA,J.)

(SUNIL B. SHUKRE,J.)