

S.R.JOSHI

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

WRIT PETITION NO.5279 OF 2024

Indiabulls Industrial Infrastructure Ltd.,
& Another

... Petitioners

Versus

The State of Maharashtra & Others

... Respondents

Mr. Dinyar Madon, Sr. Advocate and Mr. Girish Godbole, Sr. Advocate along with Ms. Bijal Vora, Nishi Doshi and Akshay Arora i/b. Parinam Law Associates, for the Petitioners.

Mr. Birendra Saraf, Advocate General with Mr. Kunal Damle along with Mr. Akshay Karelkar i/b. Shreeyog Law Associates, for Respondent-MIDC.

Mr. Nitin Katore, Manager (Legal), MIDC, present-in-person.

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signed by
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RAJNIKANT
JOSHI
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**CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.**
DATED: 12th APRIL, 2024

P.C.

We have heard Mr. Madon, learned Senior Advocate and Mr. Godbole, learned Senior Advocate for the Petitioners and Dr. Birendra Saraf, learned Advocate General, for the Respondents.

2 This Petition impugns an Eviction Order dated 29th February, 2024 passed under the provisions of Maharashtra Government Premises (Eviction) Act, 1955 ("the Act") by the Executive Engineer/ Competent Authority of the MIDC.

3 The Petitioner on an earlier occasion had, in fact, approached this Court in the proceedings of Writ Petition No.11913 of 2023. In terms of an Order dated 26th September, 2023 passed by a Co-ordinate Bench of this

Court, of which one of us (Justice Firdosh P. Pooniwalla, J) was a member, the said Writ Petition was disposed of with liberty to the Petitioner to approach the Competent Authority. All contentions of the Petitioners in that regard were expressly kept open, including those relating to the applicability of the Maharashtra Government Premises (Eviction) Act, 1955.

4 The said order dated 26th September, 2023 passed by this Court was confirmed by the Supreme Court in Petitioner's Special Leave Petition (C) No. 25661 of 2023 by not entertaining the SLP.

5 In these circumstances, the Competent Authority adjudicated the matter and passed the impugned order dated 29th February, 2023.

6 Under Section 7 of the Act, an appeal is provided against an Order passed by the Competent Authority. Dr. Saraf would hence raise a preliminary objection that, for such reason, the Petition ought not to be entertained and the Petitioner be relegated to the appellate remedy as provided by the statute.

7 Mr. Madon, learned Senior Counsel for the Petitioner has fairly stated that the Petitioner would take recourse to the remedy of Appeal before the Competent Authority and raise all contentions in such proceedings. Such appeal is required to be filed before the Court of Learned District Judge at Nashik, as per sub-section (5) of Section 7 of the Act.

8 We, accordingly, dispose of this Petition with liberty to the Petitioner to take recourse to the remedy of an appeal as provided under Section 7 of the Act.

9 All contentions which are sought to be raised by the Petitioner in the present proceedings are expressly kept open, to be urged in the appellate proceedings.

10 The Petitioner is permitted to make an Interim Application for urgent reliefs as the Petitioner may intend to seek. All contentions of the parties in that regard are also expressly kept open.

11 The Appeal under Section 7 of the Act was required to be filed within a period of 30 days from the date of receipt of service of the Order. However, in the facts and circumstances of the case, we are of the opinion that since the Petitioners were bona fide pursuing the present Petition, if the appeal is filed by the Petitioner within a period of two weeks from today, the same shall be heard on its merits and without an objection as to limitation.

12 Writ Petition is disposed of. No costs.

13 All contentions of the parties are expressly kept open.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)