



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8090 OF 2014

M/s USARA Polymers Pvt. Ltd.
Through : Its Director Mr. Mishra
Sachidanand
Age : Major, Occu. Business,
R/o 313, 3rd Floor, Bawa Towers,
Plot No.78/79, Vashi,
Mumbai-400 703.

... Petitioner.

VERSUS

1. Maharashtra Industrial Development Corporation, Orient House, Adi Megabad Path, Bellard Estate, Mumbai-400 038.
 2. Area Manager, Maharashtra Industrial Development Corporation, Regional Office, Railway Station Road, Aurangabad.
 3. The Regional Officer, Maharashtra Industrial Development Corporation, Regional Office, Railway Station Road, Aurangabad.
 4. The Executive Engineer, M.I.D.C. Civil Division, Railway Station Road, Aurangabad.
 5. The State of Maharashtra, Through Ministry of Industry.
- ... Respondents.**

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Advocate for Petitioner : Mr. Sanket S. Kulkarni.
Advocate for Respondent Nos.1 to 4 : Mr. S. S. Dande.
AGP for Respondent No.5-State : Mr. P. S. Patil.
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**CORAM : S. G. MEHARE, AND
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 13.02.2025
PRONOUNCED ON : 11.03.2025**

JUDGMENT : (Per S. G. Mehare, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.

2. The petitioner has impugned the communication dated 29.08.2013 directing him to pay the charges for extension of the time limit for approval of revised building plans and completion of factory building.

3. The dispute revolves around the period of completing the constructions in view of the agreement. Admittedly, the agreements were executed between the parties. The Agreement dated 26.04.2007 was pressed into service wherein the clause for time limit for commencement and completion for construction work was inserted. The petitioner as well as contesting respondents were interpreting this clause. The petitioner contends that in view of clause 4 (d) of the said agreement, the obligation upon him to complete was within seven (7) years from the commencement of the construction. Referring to Clause (a), it has been pointed out that from the

date of agreement, the development plans were to be submitted within 48 months from the date of agreement and from commencement of construction it should be completed within seven years. The petitioner has commenced the construction before 48 months and thereafter completed the constructions within seven (7) years. He applied for issuing building construction certificate on 27.08.2013. The Deputy Engineer of MIDC took the inspection and submitted the report on 10.10.2013. He had applied for sanction to the additional construction on 14.08.2013. The respondent directed him to pay the required fee for the additional construction permission. Accordingly, he had deposited the said amount as demanded for additional construction. He completed the constructions as per the layout plan.

4. The contesting respondents have filed affidavit-in-reply. They have denied the interpretation of the petitioner. They have a case that as per the policy of the respondent prevailing on the date of execution, the time limit for completion of construction and obtaining building construction certificate was only four years and it was mentioned in the agreement executed between the petitioner and the respondents. The petitioner has no enforceable right. Hence, the petition cannot

be entertained. It has been further submitted that the petitioner was well aware that the time limit was four years. He is taking the undue advantage of typographical error in the agreement which was incorrectly typed as seven years instead of four years. In view of the policy, then in force, the construction was not completed within four years, the petitioner is liable to pay the extension charges. Therefore, the demand letter dated 29.08.2013 is legal, correct and proper. The petitioner had no vested right to claim the period of seven years for development of the said plot. It was simply a lease agreement and it was agreed to submit the building plan proposed to be constructed on the plot to the Authority of the respondent. The petitioner was mere licensee of the Corporation. The Corporation has power to terminate the said agreement and resume the land if the terms and conditions have been breached. It is a question of disputed fact. Therefore, the petitioner has an alternate and efficacious remedy. Then also the writ petition could not be entertained. The respondents have referred to the other agreements to support its case that the time limit was only four years at the time of execution of the agreement.

5. Heard the respective learned counsels at length. They have reiterated their arguments as per their pleadings.

6. The question is “whether the respondents can deny the terms of agreement”?

7. The agreement was executed on 26.04.2007. This agreement was pursuant to the application of the petitioner for leasing the land. Both parties mutually agreed the terms and conditions by way of the instrument. Sub clause (a) of Clause 4 of the said agreement provides that from the date of the execution of the lease, the lessee should submit the plan for approval within 48 months thereof. Clause (c) was prohibiting the lessee to begin the work until the plans are approved. The petitioner had submitted the plans on 29.06.2010 which was within 48 months. It was approved on 03.11.2010. In this context, clause (d) of the said agreement is to be interpreted. It reiterated again the time limit for commencement and completion of the construction work for the ready reference we reproduce itself.

“4 (d) - That it shall within a period 48 months from the date hereof commence, and within a period of seven years from the said date at their own expense and in a substantial and workman like manner and with new and

sound material and in compliance with all Municipal rules Development Control Rules of MIDC bye-Laws and regulations applicable thereto and in strict accordance with the plans, elevations, details and specifications to the satisfaction of the Special Planning Authority Executive Engineer and conformity to the building lines marked on the plan hereto annexed and the Development Control Rules of MIDC Building Regulations set out in the Second Schedule hereunder written, build and completely finish fit for occupation a building to be used as an industrial factory with all requisite drains and other proper conveniences thereto.”

8. The only dispute raised by the respondent is that there was a typographical mistake instead of four years, seven years was inadvertently typed in the said clause. The petitioner has specific case that immediately after the approval the construction was started and it was completed within seven years from the date of the approval. For the dates of the approval/sanction to the plans and completion thereafter are not much disputed. The question is can this typographical mistake would suffer the petitioner from understanding its meaning. The law is well settled that the parties are bound by the contract. For such a typographical mistake, the existing policy at the relevant time would not help the contesting respondent for the reason that till he sought the completion certificate, the mistakes was never rectified or informed the

petitioner. The terms of agreement were specific and unambiguous. Though the policy was there that the construction should have been completed within four years, the petitioner was relying on the terms of agreement with him which was providing seven years for completion of the constructions from the date of sanctioning the development plan. We are of the opinion that since the parties are bound by the terms of agreement, no benefit of typographical mistake which was not rectified within reasonable period be granted to the respondent. Rest of the matter is not disputed. Appreciating the material on record, we do not consider that the serious disputed questions of facts are involved in the matter and the writ petition cannot be entertained. The matter was about the interpretation of the agreement clauses. We read it and find that the period for construction was seven years was explicitly inserted in the agreement. These facts are not denied. Therefore, we opine that there is no substance in the submission of the respondent. Respondent is bound by the terms of agreement. At the cost of repetition, we reiterated that the typographical mistake was not rectified in time nor any action was taken against the petitioner forthwith or within a reasonable time for not completing the construction. On the contrary, the respondent sanctioned the additional construction

and the petitioner had deposited the charges therefor. In view of this peculiar facts and circumstances of the case, we are of the opinion that since the petitioner is not at fault, he cannot be penalized or directed to pay the penalty for extension of time as per the impugned communication dated 29.08.2013. Hence, the writ petition deserves to be allowed.

ORDER

- (i) Writ petition is allowed.
- (ii) The communication dated 29.08.2013 directing the petitioner to pay the extension charges stands quashed and set aside.
- (iii) Contesting respondent is directed to issue a building completion construction certificate to the petitioner within four (4) weeks from today by following further rules as required under the MIDC Act.
- (iv) Rule made absolute.
- (v) No order as to costs.

(SHAILESH P. BRAHME, J.)

(S. G. MEHARE, J.)

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