

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15458 OF 2025
WITH
INTERIM APPLICATION NO. 13821 OF 2025
IN
WRIT PETITION NO. 15458 OF 2025

Sherkhan Nazir Mohd. Khan)
Age: about 57 years, Occupation: Business,)
And proprietor of M/s. Eskay Petrochemicals)
having its registered office at)
Bharat Auto Parts, Pankesha Dargh,)
Ghatkopar (W), Mumbai-400 086.)... Applicant/ Petitioner

Versus

1. The Area Manager,)
Maharashtra Industrial Development)
Corporation, having its Regional Office)
at Thane MIDC, Thane Region,)
Office Complex Building, 1st Floor,)
Near Wagle Estate, Octroi Naka, Thane.)
2. Member Secretary,)
Maharashtra Pollution Control Board,)
having address at Kalpataru Point,)
2nd, 3rd, 4th Floor, Opp. Cine Planet,)
Near Sion Circle, Sion (East),)
Mumbai-400 022.)
3. Sub Regional Officer,)
Maharashtra Pollution Control Board,)

- Kalyan-II.)
4. Sachin G. Bhele,)
Deputy Director, Industrial Safety and)
Health, Kalyan, District-Thane.)
5. Smt. Rekha Rampratap Singh,)
Proprietress of M/s. Square Chemicals,)
Plot No.A-61, MIDC Badlapur)
IndustrialArea, Badlapur (East),)
421 503.)
Residing at Kanchanganga, C-21,)
Plot No.34, B-Cabin Road,)
Navare Nagar, Ambernath (East).)
6. Shri. Suraj Rampratap Singh)
The present proprietor of)
M/s. Square Chemicals, Plot No. A-61,)
MIDC Badlapur Industrial Area,)
Badlapur (East) 421 503.)
Residing at Kanchanganga, C-21,)
Plot No. 34, B-Cabin Road,)
Navare Nagar, Ambernath (East),)
Also address at Plot No. 409,)
Opp. Vir Rubber Co., Chickloli,)
Ambernath Forest Naka, Opp. L.P.G.)
GasPump, Ambarnath (W),)
District- Thane.)... Respondents

Mr. S. G. Kudle, for the Applicant/ Petitioner.

Ms. Shraddha Dubepatil i/b Jay and Co., for the Respondent No.1-MIDC.

Ms. Jaya Bagwe, for the Respondent Nos.2 and 3.

**CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.**

DATE : 17th DECEMBER, 2025.

Order (Per Sandesh D. Patil, J) :

1. By the present Writ Petition, the Petitioner is seeking writ of mandamus against Respondent Nos.1 to 4 to grant a leave and licence agreement in favour of the Petitioner for a period of 10 years with effect from 15/12/2025 and further for a declaration that the Petitioner is entitled to run the chemical business in question.

2. Mr. S. G. Kudle, learned Counsel for the Petitioner states that the Petitioner had sought permission to let the premises in question i.e. A-61, MIDC, Badlapur Industrial Area, Badlapur (East) to the Petitioner. He states that the Respondent No.5 in collusion with Respondent Nos.1 and 2 created bogus documents thereby showing the Respondent No.5 as licensee of the chemical unit which is the subject matter of their dispute. He states that the Respondent No.5 committed fraud by getting a 'No Objection Certificate/ Consent letter' from the Respondent No.2. He submits that in the facts, the

Respondent Nos.1 and 2 should not have acceded to the illegal demand of the Respondent No.5 herein. He states that the licence was transferred to Respondent No.6 in place of Respondent No.5 by virtue of the Order dated 05/09/2019. He states that at the instance of Respondent Nos.5 and 6 extreme steps were taken by the office of Respondent No.3 by way of closing down the chemical business of the Petitioner by issuing the order dated 29/09/2021. He states that the officers of Respondent Nos.1 to 3 in collusion with the Respondent Nos.5 and 6 are depriving the Petitioner from carrying on his business.

3. We have perused the Petition filed by the Petitioner. We have also perused the Order dated 23/06/2025 annexed at Exhibit 'Q' to this Petition. In an earlier Petition i.e. Writ Petition No.8126 of 2025, the Petitioner had sought directions against the Respondent No.1-MIDC to ascertain whether the plot in question was wrongly allotted to Smt. Rekha Rampratap Singh-Respondent No.5 herein). While hearing this matter, this Court (Coram : Revati Mohite Dere and Sandesh D. Patil, JJ.) on 23/06/2025 passed the following order:

“1. The Petitioner seeks a direction to the Respondent No.1- MIDC to ascertain whether the

plot in question was wrongly allotted to one Smt. Rekha Rampratap Singh, the Respondent No.4 herein, under the guise of allowing her to enter into a leave and license agreement despite the said plot being allegedly allotted to the Petitioner for running his chemical activity. According to the Petitioner, the official records of the said plot are altered willfully and deliberately at the behest of the Respondent No.4 by the officials of MIDC and the Maharashtra Pollution Control Board-Respondent Nos. 2 & 3 for commercial gains. He seeks action against the erring officials. It is also the Petitioner's grievance that the Respondent Nos. 2, 3 & 4 be held responsible for Respondent No.6 namely one Sachin Bhele, Deputy Director of Industrial Safety and Health of Kalyan, District-Thane having filed a false criminal case in the Court of the CJM, Thane against the Petitioner. The Petitioner also seeks some incidental relief.

2. Mr. S. G. Kudle appears for the Petitioner and Ms. Tanu Bhatia, learned AGP represents the State. Mr. Abhijeet Yadav, learned counsel appears for Respondent Nos.4 & 5 on advance notice.

3. We heard Mr. Kudle and perused the averments in the Petition. It appears from the averments in the Petition that there are allegations against the Respondents of preparing bogus documents pertaining to the plot of land. It is also the Petitioner's submission that he is carrying out some chemical business on the plot owned by the MIDC. However, the MIDC has now allotted the said plot to the Respondent No.4. There is some contention regarding sub letting of the said plot by the Petitioner which is being held over by the

Respondent No.4. Essentially, the Petitioner seeks a declaration of his title to the said plot and his alleged entitlement to carry out his chemical business on the said plot.

4. The Petition involves a mixed question of facts and law. It is settled position of law that although the High Court is not deprived of its jurisdiction to entertain a Petition under Article 226 merely because in considering the Petitioner's right to relief question of facts may fall for determination. However, it is equally settled that the discretion must be exercised on sound judicial principles. The contentions raised in the present Petition raises questions of fact, which for their determination require oral evidence to be taken and documents to be proved. Thus, considering the issues raised in the matter, we are of the view that the dispute may not appropriately be tried in a Writ Petition under Article 226 of the Constitution of India. We are also of the view that because of the nature of the claims made in the Petition, the dispute sought to be agitated, it would be inappropriate to entertain the Petition under the Writ jurisdiction of the High Court.

5. In view of the aforesaid discussion and considering that there is an alternate, efficacious and appropriate remedy available to the Petitioner, we are not inclined to entertain the present Petition.

6. Needless to state, that the Petitioner is at liberty to initiate appropriate proceedings before an appropriate forum/Court. We make it clear

that we have not gone into the merits of the petition and as such all contentions of all the parties on merits are kept open.

7. Petition is dismissed.

8. All parties to act on an authenticated copy of this order.

4. It is worthwhile to note that, the contentions raised by the present Petitioner and in the earlier Petition, bearing Writ Petition No.8126 of 2025 are almost similar, although presented in different form. This Court had on 23/06/2025 declined to grant any relief to the Petitioner. Although, it is true that this Court had granted the Petitioner liberty to initiate appropriate proceeding before the appropriate forum, the same did not mean, filing of the present Writ Petition, again in this Court. Several disputed questions of facts and law are raised in this Writ Petition. Disputed questions on fact, cannot be gone into in writ jurisdiction. The Petitioner inspite of being granted liberty to initiate appropriate proceeding before the appropriate forum vide Order dated 23/06/2025, has not chosen to adopt the appropriate proceeding, but has chosen to file the present Writ Petition, seeking the reliefs enumerated hereinabove. The

Petitioner, in effect, is trying to re-argue the Petition which was already dismissed by this Court on 23/06/2025. Thus, we find no merit in the present Writ Petition.

5. The Writ Petition is dismissed accordingly.

6. Since, we have already dismissed the present Writ Petition, Interim Application No. 13821 of 2025 (for Status quo) does not survive and hence the same is also disposed accordingly.

7. All concerned parties to act on an authenticated copy of this Order.

(SANDESH D. PATIL, J.)

(REVATI MOHITE DERE, J.)