



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (ST.) NO. 8623 OF 2025

IN

WRIT PETITION NO. 15309 OF 2023

The Maharashtra Industrial Development
Corporation

...Applicant

In The Matter Between

M/s. Bikaner Sweets Namkin NX-2

...Petitioner

Versus

The Area Manager, Regional Office, MIDC & Ors.

...Respondents

WITH

CONTEMPT PETITION NO. 77 OF 2025

IN

WRIT PETITION NO. 10246 OF 2024

WITH

INTERIM APPLICATION (ST.) NO. 8621 OF 2025

IN

WRIT PETITION NO. 10246 OF 2024

Siddilaxmi Enclave Pvt. Ltd.

...Petitioner

Versus

The Maharashtra Industrial Development
Corporation Ltd. & Ors.

...Respondents

Mr. Tushar Sonawane a/w Shreerang More, Ms. Pooja Satpute for Petitioner
in WP No.15309 of 2023.

Ms. Sneha Phene i/b Mr. Nikhil Waje for Petitioner in CP No.77 of 2023
and WP No.10245 of 2024.

Mr. Prashant Chavan, Sr. Adv. a/w Ms. Shraddha Chheda i/b Navdeep Vora
and Associates for the Applicant in IA and for Respondent - MIDC in Writ
Petition and Contempt Petition.

Mr. A. I. Patel, Addl. G. P. a/w Ms. P. J. Gavhane, AGP for State in CP No.7
of 2025.

Mr. Akhilesh Kharabe, Officer of the MIDC, Present.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 18 MARCH 2025

P.C.

1. The proceedings are before us in pursuance of the judgment and order dated 20 December 2024 passed by this Court, whereby, the petition came to be allowed, directing the respondent - MIDC to execute the requisite agreement to lease within a period of six weeks from the date of the said judgment and to hand over physical possession of the respective allotted plots to the petitioners. The operative portion of the order is required to be noted which reads thus:

"23. In these circumstances, we have no hesitation in allowing both the Writ Petitions and directing the MIDC to execute the requisite agreement to lease, within a period of six weeks from today, and to hand over physical possession of the respective allotted lands to the Petitioners.

24. Rule is made absolute in the aforesaid terms, and these Writ Petitions are disposed of accordingly. **Although we have disposed of these Writ Petitions, they are placed for reporting compliance on February 3, 2025.**

25. All actions required pursuant to this order shall be taken upon receipt of a downloaded copy of this order as available on this Court's website."

(emphasis supplied)

2. As specifically directed in the aforesaid order in para 24, the proceedings were made returnable for compliance. Despite the clear orders passed by this Court, directing the MIDC to take appropriate steps, the

MIDC did not comply with the judgment and orders passed by this court, within the period of six weeks from the date of the said order. Accordingly, the petitioners moved this Court on 3 February 2025 when the Court, accepting the request as made on behalf of the MIDC, adjourned the proceedings to 17 February 2025, awaiting compliance. The said order reads thus:

"1. At the request of learned senior counsel appearing for Respondent no.1-M.I.D.C., stand over to 17 February, 2025 for compliance.

2. It is made clear that there shall not be further adjournment."

3. Thereafter, the proceedings were listed on 17 February 2025, when again a request was made for an adjournment, the Court passed the following order:

"1. Finally the proceedings are adjourned for a period of two weeks comply with the order dated 20 December 2024, passed by a co-ordinate Bench of this Court (Coram : B. P. Colabawalla & Somasekhar Sundaresan, JJ). The proceedings are listed before us in pursuance to a specific direction for reporting compliance, as observed in paragraph no.24 of the said order.

2. It is made that there shall not be any further adjournment on this count.

3. Stand over to 3 March 2025 along with Contempt Petition No.5509 of 2025."

4. Accordingly, the proceedings were finally adjourned to 3 March 2025, so as to enable the MIDC to place on record the compliance. Again, at the listing of the proceedings, that is on 3 March 2025, the Court recorded the

contention as urged on behalf of the MIDC that there are certain issues which, according to the MIDC, are situations which would not make it possible for the MIDC to comply with the orders. The proceedings were further adjourned to 11 March 2025, when the Court, while adjourning the matter passed an order observing that such contention as urged on behalf of the MIDC to not comply with the orders, was not acceptable as the judgment and order passed by this Court on the Writ Petition, was valid and subsisting. The Court also recorded that contempt proceedings were filed by the original petitioners which be listed along with the petition. The order dated 3 March 2025 reads thus:

"1. On 17 February 2025, we had passed an order adjourning the proceedings for two weeks for the orders dated 20 December 2024 passed by a co-ordinate Bench of this Court (Coram: B.P. Colabawalla and Somasekhar Sundaresan, JJ.) to be complied as directed by their Lordships in the said order. The proceedings were in fact disposed of. However, they were specifically directed to be placed for compliance. We were of the opinion that the respondents would comply with the order but today, Mr. Chavan, learned Senior Counsel for the respondents states that there are certain issues, which according to him, are situations which would not make it possible for the MIDC to comply with the orders of this Court. This is submitted by Mr. Chavan referring to a letter dated 27 February 2025 issued by the Navi Mumbai Municipal Corporation to the Chief Officer of the M.I.D.C.

2. In one of the petition, even the Navi Mumbai Municipal Corporation is a party to Writ Petition No.10246 of 2024 and if the orders passed by this Court are also binding on the Navi Mumbai Municipal Corporation, they were required to be complied.

3. We cannot accept such contentions as the order dated 20 December 2024 passed by a Coordinate Bench as on date is valid and subsisting.

4. Be that as it may, we adjourn the proceedings for **11 March 2025**. The petitioners have also filed contempt petition. Let the same be also listed along with the present proceedings."

5. On the backdrop of the aforesaid orders, the proceedings were listed before us on 11 March 2025 when the present Interim Application (st.) No. 8623 of 2025 came to be moved on behalf of the MIDC making a prayer that as the MIDC has approached the Supreme Court, time to comply with the Judgment and Order dated 20 December 2024 be extended by further four weeks. The relevant averments as made in the Interim Application are required to be noted which reads thus:

"11. The Applicants states that the considering these difficulties expressed by Navi Mumbai Municipal Corporation and the written request made by the NMMC, the Applicant has filed the Special Leave Petition before the Hon'ble Supreme Court of India challenging the judgment and order dated 20 December 2024 passed by this Hon'ble Court in the above Petition. The Applicant understand that the admission / hearing of the aforesaid Special Leave Petition will take some time and therefore the time for compliance of the judgment and order dated 20 December 2024 may be extended otherwise the entire purpose of preferring the Special Leave Petition would become redundant.

12. In the aforesaid circumstances, the Applicant is approaching this Hon'ble Court with prayer to grant further time to comply with the judgment and Order dated 20 December 2024 subject to any further orders that may be passed by the Hon'ble Supreme Court of India in SLP (Diary) No. 11503 of 2025.

13. The Applicant therefore prays that;

a. This Hon'ble Court be pleased to extend the time to comply with the Order dated 20 December 2024 by four weeks from today;"

6. It is on such backdrop, we have heard learned counsel for the parties.

The learned counsel for the petitioners have drawn our attention to the

orders passed by the Supreme Court in the case of **Ajay Kumar Jain Vs. State of Uttar Pradesh & Anr.**¹ in regard to the jurisdiction of the Court to entertain an application after the principal proceedings are disposed of. In such context, the Supreme Court has observed that the Court has no jurisdiction to entertain any such applications, as no proceedings could be said to be pending before it and that if such an application is made it would be maintainable only for the purpose of correcting the clerical or arithmetical errors. It was also observed that post disposal, application for modification or clarification of the order would lie only in rare cases, where the orders passed by the Court is executory in nature and the directions of the Court may become impossible to be implemented because of subsequent event for developments. The relevant observations in that regard are required to be noted which reads thus:

"11. This Miscellaneous Application on the face of it is not maintainable in law.

12. It is high time that this Court says something on the practice of the litigants filing miscellaneous applications in disposed of proceedings and that too after a period of 5 years, 7 years, 10 years.

13. These miscellaneous applications which are being filed on daily basis have something to do with fresh cause of action that might have arisen with a very remote connection with the main proceedings.

14. No miscellaneous application is maintainable in a writ petition to revive proceedings in respect of subsequent events.

1 2024 SCC OnLine SC 3677

15. In fact, the Court has no jurisdiction to entertain such application as no proceedings could be said to be pending before it. When proceedings stand terminated by final disposal of the writ petition be it under Article 32 of the Constitution or Article 226 of the Constitution before the High Court, it is not open to the Court to re-open the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of action. If this principle is not followed, there would be confusion and chaos and the finality of the proceedings would cease to have any meaning.

16. In the recent past, a co-ordinate bench of this Court observed the following in “Jaipur Vidyut Vitran Nigam Ltd, and Others vs. Adani Power Rajasthan Ltd. and Another reported in 2024 SCC OnLine SC 313”:-

“We felt it necessary to examine the question about maintainability of the present application as we are of the view that it was necessary to spell out the position of law as to when such post-disposal miscellaneous applications can be entertained after a matter is disposed of. This Court has become functus officio and does not retain jurisdiction to entertain an application after the appeal was disposed of by the judgment of a three-Judge Bench of this Court on 31.08.2020 through a course beyond that specified in the statute. This is not an application for correcting any clerical or arithmetical error. Neither it is an application for extension of time. A post disposal application for modification and clarification of the order of disposal shall lie only in rare cases, where the order passed by this Court is executory in nature and the directions of the Court may become impossible to be implemented because of subsequent events or developments. The factual background of this Application does not fit into that description.” (Emphasis supplied) "

17. Thus, this Court made it abundantly clear that a miscellaneous application filed in a disposed of proceedings would be maintainable only for the purpose of correcting any clerical or arithmetical error. The Court further clarified that a post disposal application for modification or clarification of the order would lie only in rare cases where the order passed by this Court is executory in nature and the directions of the Court may have become impossible to be implemented because of subsequent events or developments.

18. The Registry shall not circulate any miscellaneous application filed in a disposed of proceedings unless and until there is a specific averment on oath that the filing of the miscellaneous application has been necessitated as the order passed in the main proceedings being executory in nature and have become impossible to be implemented because of subsequent events or developments."

7. It appears that consistently such view has been taken by the Court. This is also clear from the decision of the Supreme Court in **Nazma Vs. Javed @ Anjum**², wherein the Court observed that once the writ petition itself was disposed of, the High Court becomes *functus officio* and cannot entertain Review Petitions or Miscellaneous Applications except for carrying out typographical or clerical error.

8. Thus, in our opinion, the Interim Application filed on behalf of the MIDC cannot be held to be maintainable merely for the reason that the MIDC has approached the Supreme Court by filing SLP and could not obtained any orders on the said SLP. The mandate of law as discussed by the Supreme Court in **Ajay Kumar Jain (supra)** as also in **Nazma (supra)** is clearly applicable in the facts of the present case, to enable us to conclude that such application, as filed on behalf of the MIDC, would be required to be rejected.

9. In our opinion, in fact there would be another issue, namely, that once the High Court has decided the proceedings of the Writ Petition by the judgment and order dated 20 December 2024 passed by a co-ordinate Bench

2 [2012] 9 SCR 826

of this Court (Coram : B. P. Colabawalla & Somasekhar Sundaresan, JJ) such orders were binding and are required to be implemented by the MIDC, unless in a manner known to law such orders were rendered ineffective. By non compliance of the said orders, the authority concerned would be acting in breach of the rule of law, and the mandate of the orders passed by this Court.

10. Thus, considering the fact that the co-ordinate Bench had categorically observed that the proceedings be made returnable for compliance, such directions were to be considered in letter and spirit by the MIDC. We may observe that normally the Court does not pass such orders making the matter returnable for compliance unless the Court considering the justice in the case, feels that compliance be reported to the Court, so that the litigant is not driven to further litigation, either in contempt or in execution proceedings. In this view of the matter, it was more imperative for the MIDC to implement the orders passed by the Court. Any breach of such orders by the officers of the MIDC in such circumstances cannot be countenanced.

11. In view of the above discussion, we dismiss the Interim Applications filed by the MIDC.

12. We are of the clear opinion that, at this stage, we do not intend to initiate any action against the concerned Officers of MIDC and to proceed against them in Contempt.

13. In so far as the compliance of the judgment and order dated 20 December 2024, we order that the MIDC shall comply with the orders passed by this Court by putting the petitioners in possession of the land which shall be latest by tomorrow. Insofar as the execution of the agreement to lease is concerned, the same be executed within a period of one week from today. Ordered accordingly.

14. As the orders are passed in the open Court, Mr. Chavan learned senior counsel for the MIDC shall communicate the order to the concerned officer present in the Court. He states that one of the officer Mr. Akhilesh Kharabe, MIDC is present in the Court, who also has taken notice of this order.

15. We, accordingly, adjourn the proceeding of the Writ Petition, for recording compliance in terms of the present orders to **25 March 2025 (HOB)**.

16. In the event, the petitioners are not put in possession by tomorrow, liberty to the petitioners to apply and this shall be considered as a further non compliance of the orders passed by this Court on the part of the concerned officials of the MIDC.

17. Parties to act on the authenticated copy of the order.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)