

Chaitanya

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

**INTERIM APPLICATION NO. 6767 OF 2025
IN
WRIT PETITION NO. 3445 OF 2024**

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Municipal Corporation of Delhi ... Applicant

In the matter between :

Municipal Corporation of Delhi ... Petitioner

Versus

District Collector,
Mumbai Suburban District And Ors. ... Respondents

Mr. Gaurav Joshi, Senior Advocate a/w Mr. Sanjay Vashishtha, Mr. Shreyas Shrivastava, for Applicant/Petitioner.

Ms. Sakshee P. Chavan, for Respondent No.3-UOI.

Ms. S. D. Vyas, Addl.G.P. a/w Ms. P. J. Gavhane, A.G.P., for State.

Mr. Zal Andhyarujina, Senior Advocate a/w Ms. Revati Desai, Mr. Siddharth Shah i/b Naik Naik Co., for Respondent Nos. 4 to 34.

Mr. Shyam Kapadiya a/w Mr. Abdul Basit Kudalkar i/b Disha Parekh, for Respondent IRP

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 25 September 2025

PC:-

1. Heard the learned counsel for the parties.

2. This Interim Application seeks leave to amend the Writ Petition which is yet to be admitted.

3. Mr. Joshi submits that the amendment was necessitated on account of certain subsequent developments. He submitted that the challenges now raised by this amendment are necessary for consideration and the grant of effective relief in the main Petition. He points out that the MSME registration, which is now being challenged by filing this amendment, cannot be questioned before any other Court than this Court. He refers to an order dated January 6, 2025, made by the Hon'ble Supreme Court in the case of **Central Bank of India vs. Ramesh Shah in Consortium with Masitia Capital Services Pvt. Ltd. and Ors.**¹. Accordingly, he submits that leave may be granted to amend this Petition.

4. The learned counsel for the Respondents oppose the grant of leave to amend. They submitted that such an amendment, if allowed, would change the entire cause of action and the complexion of the Petition as originally instituted. They submitted that the amendment proposes to introduce disputed questions of fact which are ordinarily never entertained in a Writ Petition. They submit that the prayers now sought by seeking leave to amend were previously sought before the National Company Law Tribunal ("NCLT"). They rely on **Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited And Anr.**², in which it is

¹ Civil Appeal Nos. 6039-6044/2044

² (2022) 16 SCC 1

observed that alteration or substitution of a new cause of action based on which the original lease was raised ought not to be allowed by granting leave to amend.

5. We have considered the rival contentions and believe that there is no good reason not to grant the Petitioners leave to amend the Petition, which has yet to be admitted.

6. At least prima facie, we do not agree that this constitutes a substitution of the earlier cause of action. The Petitioners instituted this Petition because, according to them, the authorities in the State of Maharashtra were derelict in discharging their statutory duties to recover certain amounts from the private Respondents in this Petition. The Co-ordinate Bench of this Court, in its order dated 28 March 2024, has explained the scope of the proceedings in this Petition.

7. By way of amendment, the Petitioners seek to challenge certain subsequent developments, which, they apprehend, will create further obstacles for the recovery of the amounts which the Petitioners claim are due and payable to them by the private Respondents. Therefore, there is a nexus between the cause of action pleaded in the original Petition and what is now proposed to be amended.

8. In any event, the objections now raised are not being decided by us finally. We have considered these objections only in the context of deciding whether any leave to amend should be granted. Once the amendment is allowed, it will always be open to the Respondents to raise all permissible

defences. There is no reason to apprehend that such defences would not be considered in accordance with the law.

9. The observations in *Life Insurance Corporation of India* (supra) that normally no amendment should be allowed to substitute the original cause of action do not appear to be attracted in the present case. The amendment in this case appears to have been necessitated by certain subsequent developments. As discussed earlier, there is no wholesale substitution as contended. At least prima facie, this is a case of seeking additional relief in furtherance of the relief already applied. Subsequent developments primarily necessitated this. The amendment is necessary to consider the issue of granting or refusing the relief comprehensively. The amendment will prima facie prevent multiplicity.

10. According to the Respondents, the Petitioners would have to file fresh proceedings to challenge the MSME Registration or question the proceedings before the NCLT. If a fresh Petition would be maintainable, then we see no difficulty in the Petitioners being granted leave to amend this Petition for seeking such reliefs. Whether such reliefs can be granted or not is a matter that will have to be decided on merits and not at this stage itself. Full opportunity would be given to the Respondents to respond to the amended Petition and raise all permissible defences. Therefore, there is no question of any prejudice or serious prejudice to the Respondents.

11. For all the above reasons, we grant the Petitioners leave to amend their Petition. The amendment should be carried out within two weeks, and amended copies of the Petition should be served upon the Respondents. Upon receipt of the amended copies, the Respondents, if they so choose, may file their replies within four weeks by serving advance copies on the learned counsel for the Petitioners.

12. The Interim Application is disposed of in the above terms without any costs order.

(Advait M. Sethna, J)

(M.S. Sonak, J)