

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 1288 OF 2024

M/s. Rallis India Limited,
a Company incorporated under the
Companies Act, 1913, having its
registered office at 23rd Floor,
Vios Tower, New Cuffe Parade,
Off. Eastern Freeway, Wadala,
Mumbai - 400 037.

... Petitioner

Versus

The Board of Mumbai Port Authority
a Statutory Body incorporated under
Section 3 of the Major Port Authorities
Act, 2021, having its registered Office at
Vijay Deep, Shoorji Vallabhdas Marg,
Ballard Estate, Mumbai-400 001.

... Respondents

Mr. Viren Asar a/w Mr. Sahil Saied and Mr. Arumazda Postvala
i/b Saiyed Sahil M. Nagamiya for the Petitioner

Mr. S. A. Bhalwal i/b Vyas and Bhalwal for the Respondents

***CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
FRIDAY, 7th MARCH 2025***

ORAL ORDER (Per Revati Mohite Dere, J.) :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Mr. Bhalwal waives service on behalf of the respondent.

3 By this petition, the petitioner seeks the following reliefs :

“A. That this Hon'ble Court be pleased to issue an order declaring that the Petitioner's tenancy in respect of Jetha F-105 and the lease in respect of Godown Nos. H-120E & H-120W was lawfully surrendered by the Petitioner vide its letters dated 10th April 2023, followed by the reminder letters dated 21st June 2023 (in respect of each of the said Plots) at exh. J and K and L and M respectively

B. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction under Article 226 of the Constitution of India, ordering and directing the Respondent to take appropriate steps to accept the Petitioner's surrender of its tenancy in respect of Jetha F-105 and its lease in respect of Godown Nos. H-120E & H-120W with effect from 10th April 2023.

C. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any

other appropriate Writ, order or direction under Article 226 of the Constitution of India, ordering and directing the Respondent to take appropriate steps to immediately take over from the Petitioner the possession of the said Plots (viz. Jetha F-105 and Godown Nos. H-120E & H-120W).”

4 Learned counsel for the petitioner submits that the petitioner was granted tenancy by the respondent-Mumbai Port Authority in respect of three premises i.e. (i) Plot being Jetha F-105 (admeasuring about 227.43 sq. meters) with structure thereon, situated at Mazgaon Sewree Reclamation Estate, Mumbai; (ii) Godown No. H-120E (admeasuring about 208.61 sq. meters), situated at Cotton Depot, Mazgaon-Sewree Reclamation Estate, Mumbai; and (iii) Godown No. H-120W (also admeasuring about 208.61 sq. meters), also situated at Cotton Depot, Mazgaon-Sewree Reclamation Estate, Mumbai.

5 Learned counsel for the petitioner submits that the respondent Authority be directed to accept the petitioner's surrender of tenancy/lease in respect of the aforementioned plots,

inasmuch as, the petitioner intends to hand over quite, vacant and peaceful possession of the same to the respondent Authority. Learned counsel for the petitioner submits that, despite the petitioner, on several occasions, calling upon the respondent Authority asking them to take over the possession, as the petitioner intended to surrender the same, the respondents refused to accept the same. He submits that in view of the non-acceptance of the surrender of the petitioner's property, the petitioner is required to incur costs and ensure that the plots are kept safe from encroachments. He submits that as the respondent Authority failed to accept the surrender, the petitioners were constrained to file the aforesaid petition.

6 Learned counsel for the petitioner relied on the orders passed by this Court dated 6th December 2024 and 30th July 2024 passed in Writ Petition (Lodging) No. 23749/2024 and Writ Petition (Lodging) No. 35870/2023 respectively. He submits that similar orders be passed in the present petition.

7 Learned counsel for the respondent does not dispute that the orders dated 6th December 2024 and 13th July 2024 have attained finality, inasmuch as, the said orders have not been challenged by the respondent Authority. He submit that it be clarified that the surrender made by the petitioner with respect to the said plots would be without prejudice to the rights and contentions of either of the party.

8 Perused the petition, as well as the orders relied upon by the learned counsel for the petitioner.

9 Considering the reliefs sought in the petition, we deem it appropriate to direct the respondent to take over the possession of the subject plots, as mentioned in Para 4 aforesaid, within one week from today. On possession being taken of the said plots from the petitioner, the respondent Authority to issue a Surrender Certificate as done in the past for other plots which

have been surrendered by other parties and as stipulated in the Surrender Circular.

10 Needless to state that the surrender of the aforesaid plots by the petitioner to the respondent Authority, is without prejudice to the rights and contentions of both parties.

11 We make it clear that we have not gone into the other aspects with respect to the alleged amounts due and payable by the petitioner to the respondent Authority or any other Authority. All these aspects are expressly kept open, to be agitated before the appropriate forum.

12 Needless to also state that at the time of surrender, the petitioner to inform the respondent Authority of the address on which communication can be addressed or any change of address in future.

13 The petition is allowed and disposed of on the
aforesaid terms.

14 All concerned to act on the authenticated copy of this
order.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.