

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

WRIT PETITION NO.738 OF 2025

Ramashankar Ramkisan Varma	]	Petitioner
Vs.		
Municipal Commissioner Brihanmumbai	]	
Municipal Corporation and others	]	Respondents

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Mr. Sanotsh B. Sitap a/w Mr. Audumbar Swar, for Petitioner.

Ms. Rupali Adhate i/b Ms. Komal Punjabi, for Respondents No.1 to 3 – B.M.C.

Mr. Milind More, Addl. G.P, for Respondents No.5, 8 and 9 – State.

Ms. Priyanka Chavan, for Respondent No.6 – MHADA.

Dr. Milind Sathe, Senior Advocate a/w Mr. Parag Kabadi, Ms. Drishti Gudhaka i/b DSK Legal, for Respondent No.7.

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CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, J.J.

DATE : 12th JUNE, 2025.

P.C:

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs;

*“(a) That this Hon'ble Court be pleased to issue a Writ of Certiorari and/or a Writ in the nature of Certiorari and/or any other appropriate Writ, Order or Direction calling for the file and records pertaining to the said Development Right Certificate bearing no. 000946 dated 11.07.2017 (being **Exhibit "GG"** hereto) and Development Right Certificate bearing no.*

*RES/0036/2023 dated 03.11.2023 (being **Exhibit "HH"** hereto) issued by Respondent No. 1 and after examining the legality and validity thereof quash and set aside the said Development Right Certificate No. bearing no. 000946 dated 11.07.2017 and Development Right Certificate bearing no. RES/0036/2023 dated 03.11.2023;*

*(b) That this Hon'ble Court be pleased to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus and/or any other appropriate Writ, Order or Direction to stay the utilization of the said Development Right Certificate bearing no. 000946 dated 11.07.2017 (being Exhibit "GG" hereto) and Development Right Certificate bearing no. RES/0036/2023 dated 03.11.2023 (being **Exhibit "HH"** hereto) issued by Respondent No. 1 till the disposal of the present petition;*

2. At the outset, Dr. Milind Sathe, learned Senior Advocate for the respondent No.7-Century Textile and Industries Limited (for Short "Century Mills") submits that the Development Right Certificate dated 11th July, 2017 and 3rd November, 2023 which were issued in favour of his client by the Bombay Municipal Corporation in terms of Regulation 58 of the Development Control Regulations Greater Bombay, 1991 have already stand exhausted inasmuch as the rights under the said DRC stand transferred in favour of third parties, and in that regard the amounts are received.

3. We find that there is a history of litigation between the workers of respondent No.7 – Textile Mill inasmuch as the proceedings were

initiated before the Industrial Court at Bombay under the provisions of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 which came to be adjudicated by final orders of 11th December, 2015 passed by the learned Judge, Industrial Court at Mumbai. Such orders passed by the Industrial Court are challenged by the respondent No.7 before this Court in Writ Petition No.702 of 2016 which is stated to be pending. We find from the record that in the said Writ Petition, Notice of Motion No.348 of 2017 was filed wherein respondent No.7 prayed for variation of an earlier order dated 12th April, 2016 passed by the Court, to the extent it concerned an undertaking as furnished on behalf of respondent No.7, not to dispose of an earmarked area of 1.08 acres of land as described in the undertaking submitted to the State Government on 14th December, 2007 by respondent No.7. On such Notice of Motion, an order dated 31st January, 2018 was passed by the learned Single Judge. The operative portion of the said order reads thus;

“(i) The petitioner shall deposit with the Prothonotary and Senior Master of this Court a sum of Rs. 8.34.68.527.90 within a period of three weeks from the date of uploading of this order.

(ii) If such amount is deposited with the Prothonotary and Senior master, the same will be invested by the Prothonotary and Senior Master with a nationalised bank in a fixed deposit initially for a duration of not less than one year and at the best available rate of interest paid on deposits. The deposit shall be renewed from time to time till further orders of the Court in this Writ Petition.

(iii) Upon such deposits being made, the petitioner shall stand relieved of their undertaking to this Court to set aside the earmarked area of 1.08 acres of land as contemplated in the order dated 12th April, 2016. It is clarified for avoidance of doubt that this Order does not dilute the undertaking given to the State Government vide the affidavit dated 14th December, 2007.

(iv) It is also made clear that deposit of this amount will be without prejudice to the contention of the petitioner that no amounts are payable to the respondents”.

(v) Notice of Motion disposed of in the above terms”.

4. Dr. Milind Sathe, learned Senior Advocate for the respondent No.7 has also drawn our attention to a communication dated 19th May, 2018 addressed by the Commissioner of Labour to the Municipal Commissioner, Greater Bombay in so far as the land in question admeasuring 1.08 acres reserved in the interest of 275 workers. We note the said communication which reads thus;

[Official translation of the letter dated 19th May, 2018)

No. L.C./N.O.C./M.No.1083/2007/Desk-7/586
Office of the Labour Commissioner,
Kamgar Bhavan, 20 C.E. Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 51.
Date : 19th May, 2018.

To,
The Commissioner,
Brihanmumbai Municipal Corporation,
Mumbai.

Subject:-Application for issuing No-objection Certificate for the development of the land bearing C. S. No. 794/1545, 1546 of the Establishment viz. M/s. Century Textile and Industries Ltd., Pandurang Budhkar Marg, Worli, Mumbai-30

Reference:-1)No-Objection Certificate No. L.C./NOC/M.No. 1083/2007/Desk-7 dated 05.03.2008 issued by this Office.

2)Government's Sanction Order No. NOC-42018/M.No. 39/Labour-2, dated 02.05.2018.

Respected Sir,

Vide the Letter referred to hereinabove at Sr.No.1, No-objection Certificate to the effect that no legal dues of the workers are outstanding, has been issued to the Establishment viz. M/s. Century Textile and Industries Ltd., for the development of its land bearing C. S. No. 794/ 1545, 1546, totally admeasuring 1,56,500 Sq.mtrs., situated at Pandurang Budhkar Marg, Worli, Mumbai-30. While granting the said permission, the area admeasuring 4372 Sq.mtrs. (1.08. Acres) from out of the area of Survey No.794, owned by the Mill Owner, was kept reserved. Therefore, the Management of the said Establishment has made an application on the date 26.02.2018 to the Deputy Labour Commissioner, Mumbai City, Mumbai requesting therein to release the land of the area admeasuring 4372 Sq.mtrs. (1.08. Acres) from out of the area of Survey No.794, kept reserved for the payment of dues of total 275 workers. In pursuance thereof, the Deputy Labour Commissioner, Mumbai City, Mumbai carried out detailed enquiry in to this matter and submitted his report to this Office on the date 16.04.2018 and the below-mentioned points have been mentioned therein.

(1) During the course of enquiry made in pursuance of the said application, it is found that 213 workers out of 275 workers have accepted in lump-sum, the Ex-Gratia amount to be received by them upto their attaining the age of 63 years. Legal dues of 13 workers towards the benefits on account of their Retirement/pension/ death have been paid. The Management has given Bank Guarantee towards the dues of 1 worker and has deposited the amount towards the dues of 10 workers in the Hon'ble High Court, Mumbai as directed in Petition

No.702/2016. The Ex-Gratia amount is being paid to the remaining 38 workers.

2) When the Management has calculated the amount to be paid towards the Ex-gratia Amount to 38 workers, the expected amount comes to Rs.9,72,08,206/-. Therefore, it is recommended that, there is no objection to release the plot of land admeasuring 1.08 Acres i.e. 4,372 Sq. Mtrs. reserved in view of the No Objection Certificate issued earlier after obtaining a Bank Guarantee to the tune of Rs.11 Crores for making payment of Ex-gratia Amount to 38 Workers.

3) Hence, pursuant to the said recommendations, this Office, by its letter dated 26.04.2018, has recommended to the Government that, after the Management executes an affidavit giving an Undertaking of payment of Ex-gratia amount to be paid every month to said 38 workers and after it gives a Bank Guarantee of sum of Rs.11 Crores issued by a Nationalised Bank, an appropriate decision should be taken at the Government Level.

In pursuance of the said proposal (report), the Government has directed the Office of the Labour Commissioner to issue a No Objection Certificate to the Applicant for releasing the land admeasuring 4,372 Sq. Mtrs. (1.08 Acres) after obtaining a Bank Guarantee of sum of Rs.11 Crores issued by a Nationalised Bank. Pursuant to the said Order, by the letter dated 05.05.2018, the Office of the Deputy Labour Commissioner, Mumbai City, Mumbai has been informed to obtain a Bank Guarantee of sum of Rs.11 Crores issued by a Nationalised Bank. Therefore, subject to the condition of obtaining a Bank Guarantee and also subject to the Court Cases that would be filed in future, approval is hereby granted to the proposal for releasing the earlier reserved land admeasuring 4,372 Sq. Mtrs. (1.08 Acres) from out of the land bearing Survey No. 794, owned by Messrs Century Textile and Industries Limited, located on the land bearing C. S. No. 794/1545, 1546, situated at Pandurang Budhkar Road, Worli, Mumbai – 30.

Yours faithfully,

(Signature Illegible)
[Narendra K. Poyam],
Labour Commissioner,
Maharashtra State, Mumbai.

1) *Messrs Century Textile and Industries Limited, C. S. No. 794/1545, 1546, situated at Pandurang Budhkar Road, Worli, Mumbai – 30.*

2) *Deputy Labour Commissioner, Mumbai City, Mumbai.(Copy furnished under Right to Information Act, 2005)*

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5. We are informed by Dr. Sathe that majority of the workers have already been paid their respective amounts. However, in so far as the petitioner and other nine workers are concerned, the proceedings are pending before this Court in the said Writ Petition (Writ Petition No.702 of 2016).

6. In the aforesaid circumstances, we would be at loss to understand as to how a relief as prayed for in the present proceeding which already has been dealt by respondent No.7, that the DRC be quashed and set aside can at all be granted by this Court. If at all, any relief the petitioner could seek, would be to claim monetary reliefs *qua* the amounts to which the petitioner would assert to be entitled subject matter of the proceedings as taken up before the Industrial Court and now pending in the proceedings of Writ Petition No.702 of 2016, which is pending consideration of the learned Single Judge.

7. We may also observe that the land in question subject matter of the two DRCs' admeasuring 13091.90 square meters in so far as the

DRC dated 11th July, 2017 is concerned and land admeasuring 9233.62 square meters subject matter of DRC dated 3rd November, 2023 has already been surrendered to the MHADA and the Bombay Municipal Corporation respectively.

8. In the light of the above discussion, we are not inclined to entertain this petition. Such prayers as made by the petitioner cannot be granted. It is open to the petitioner to agitate all his contentions in regard to his claim in the proceedings of Writ Petition No.702 of 2016 which is pending consideration before the learned Single Judge.

9. All contentions of the parties in that regard are expressly kept open.

10. The Petition stands disposed of in the aforesaid terms. No costs.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]