



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 4271 OF 2025
IN
WRIT PETITION NO. 4105 OF 2020**

M/s. Mirajgave Construction
through its Proprietor,
Dilip S/o. Shivappa Mirajgave

... Applicant

vs.

The State of Maharashtra & Anr.

... Respondents

...

Mr.Rajendra Deshmukh, Senior Advocate, h/f. Mr.T.M.Venjane for the
Applicant/ Petitioner.

Mr.P.K.Lakhotiya, AGP for the Respondent -State.

Mr.Shambhuraje Deshmukh for Respondent No.2- CIDCO.

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**CORAM : RAVINDRA V. GHUGE &
N.B.SURYAWANSHI, JJ.
(THROUGH VC)**

DATE : MAY 04, 2026

P.C:

1. We have heard the submissions of the learned Senior Advocate, Mr.Rajendra Deshmukh, appearing on behalf of the Applicant, who was the original Petitioner in Writ Petition No. 4105 of 2020. He had subsequently approached this Court by filing Writ Petition No. 8640 of 2022. We have also heard the learned Advocate, Mr.Shambhuraje Deshmukh, appearing on behalf of CIDCO.

2. We have noticed peculiar facts emerging from the record. When the Applicant had approached this Court in Writ Petition No. 4105 of 2020, CIDCO authorities had not filed their affidavit in reply for more than a year. We were, therefore, constrained to proceed with the hearing in the Petition without the reply from CIDCO.

3. In addition to the above ground, another reason for proceeding without the reply of CIDCO was the admitted position that the erstwhile allottee, Nutan Shah, had not been heard when the impugned communication was issued. The Writ Petition filed by the present Applicant was, therefore, partly allowed, and the impugned communication dated 26.12.2019 was quashed, primarily to enable the CIDCO authorities to issue notices to all concerned parties and to consider the contentions of all stakeholders in connection with the subject matter, before passing an order. We had directed that a hearing be conducted in accordance with law and that a reasoned order be passed. For clarity, we are reproducing paragraph Nos. 3 to 5 of the order dated 15.09.2021, hereunder:

‘3. We have perused the impugned order dated 26.12.2019 and we have heard the strenuous

submissions of the learned counsel for the respective sides. The petitioner's contention is that it was not heard when the impugned order was passed. CIDCO contends that the purported agreement dated 01.07.1994 between the erstwhile allottee Smt. Vanita Nutan Shah and others, the petitioner herein and CIDCO authorities, does not bear the signature and seal of CIDCO. Consequentially, the allotment of 0.42 Hectare R, which is equivalent to 1 acre of land in gut no.48 at Mauje Wadgaon (Kolhati), to Smt. Vanita Nutan Shah and others, stands cancelled.

4. It is apparent from the record that Smt. Vanita Nutan Shah or the petitioner were not heard when the impugned communication was issued. The learned advocate for the petitioner submits that the petitioner is willing to appear before respondent no.2 authority and address the concerned authority before it passes any order.

5. In view of the above, this petition is partly allowed. The impugned communication dated 26.12.2019 is quashed and set aside. The file on which the impugned order was passed, stands restored. CIDCO authorities are at liberty to issue notice to all such parties, who can be termed as the stake holders in connection with the subject matter at issue and conduct a hearing as may be prescribed in law and thereafter pass a reasoned order. We make it clear that if any order passed by CIDCO is in connection with the agreement dated 01.07.1994 and creates a dispute as to whether CIDCO authorities had been a party to the said agreement or not, the litigating parties would have a remedy of approaching the civil Court since the issue would then throw up disputed questions touching the very agreement dated 01.07.1994.'

4. After the above order was passed, the Petitioner once again approached this Court by way of Writ Petition No. 8640 of 2022. By the time this Court, at the Aurangabad Bench, heard the said Writ Petition on 19.03.2025, CIDCO authorities had already conducted a hearing and passed an order dated 05.07.2022. Having considered the said order, this Court passed a short order on 19.03.2025, permitting the Petitioner to withdraw the Petition and to take recourse to a remedy as is available in law. The learned Senior Advocate, Mr.Rajendra Deshmukh, submits that the Petitioner has, therefore, filed this Review Petition.

5. The learned Senior Advocate, on behalf of the Petitioner/Applicant, submits that the order dated 05.07.2022 clearly concedes to the averments of the Petitioner that the erstwhile title holder, Smt. Nutan Tejpal Shah, was paid compensation for acquisition of a part-parcel of the land and, to the extent of acquiring the remainder parcel of the same land (remainder portion of the land), she was allotted an alternate plot bearing Gat No. 48, Vadgaon Kolhati, admeasuring 0.42 hectares. This portion came in the possession of Smt. Nutan Tejpal Shah. She entered into an agreement with the present Petitioner for the development of the said plot. All these aspects have been admitted in the order dated 05.07.2022.

6. What intrigues us is that, when though this was a plain and admitted factual position, CIDCO authorities, in the backdrop of admitting a lapse on their part in not having signed a formal agreement with Smt. Nutan Tejpal Shah, deny the agreement. CIDCO should have, in fact, completed the formality of signing that agreement, which was already signed by Nutan Tejpal Shah, after which the agreement was acted upon by CIDCO authorities as well as Smt. Nutan Tejpal Shah. The matter could have rested there. Instead, in the concluding paragraph of the order dated 05.07.2022, CIDCO authorities, having admitted the position as is averred by the present Petitioner, concluded that, because there is no agreement signed by CIDCO with Smt. Nutan Tejpal Shah, the prayer for the grant of the alternate land cannot be accepted.

7. It is in the above backdrop that the present Applicant approached this Court in Writ Petition No. 8640 of 2022, seeking leave to take recourse to such remedy as is permissible in law.

8. We called upon the learned Advocate for CIDCO to state whether the narration in paragraph Nos. 4 and 5 of the order dated 05.07.2022, is an admitted position. He submits that CIDCO stands by the

narration set out in paragraph Nos. 4 and 5 of the order dated 05.07.2022. He, however, adds that, because there was no formal agreement between the erstwhile landowner and CIDCO, the concluding observation, under the caption 'Nirnay' (meaning 'order'), finds place in the said order.

9. We are of the view that our observation in paragraph No. 5 of the order dated 15.09.2021, to the extent that if there is a disputed issue, the Petitioner may approach the Civil Court, needs a re-look for the reason that CIDCO has admitted all the averments made by the Petitioner as well as the erstwhile title holder, in its order dated 05.07.2022. Merely because CIDCO had not signed on the agreement already signed by the original landowner, the request of the present Petitioner was turned down. Instead of curing the defect by signing the agreement, in the backdrop of CIDCO having acted upon the said agreement, an adverse order is passed.

10. The erstwhile landowner, Smt. Nutan Tejpal Shah, had surrendered the land to CIDCO in view of the agreement dated 01.07.1994 by signing the same, and CIDCO took possession of the said land on 01.08.1994. It was purely due to oversight that CIDCO did not notice that it had failed to sign the agreement, which had already been signed by the erstwhile plot owner and acted upon by both the parties. CIDCO is,

therefore, estopped by conduct from contending that it was not aware of the agreement or that the said agreement cannot be implemented on the ground that it had not signed the same.

11. We are surprised by the contents of the affidavit-in-reply dated 03.12.2025, filed through Mr. Bhujang Mashnaji Gaikwad, Administrator of CIDCO, wherein, instead of curing the admitted defect of a formal agreement having not been signed by CIDCO, it is contended that the Applicant has indulged in suppression of material facts. A prayer has been made that the Interim Application be rejected. We, therefore, find that CIDCO has acted unfairly towards the present Petitioner.

12. In view of the above, the Civil Application seeking modification of the last sentence in paragraph 5 of the order dated 15.09.2021 in Writ Petition No. 4105 of 2020, stands allowed. The said sentence shall stand substituted and shall read as under:

‘We make it clear that if any order passed by CIDCO authorities in connection with the agreement dated 01.07.1994, is adverse to the Petitioner, it would be at liberty to avail of a remedy as is permissible in law.’

13. Considering the conduct of CIDCO, discussed elaborately herein above, we deem it appropriate to impose costs of Rs. 50,000/- on CIDCO. The said amount shall be deposited with the Registry of the Aurangabad Bench of the Bombay High Court, within a period of 30 days from today.

14. Since the learned Senior Advocate, Mr. Rajendra Deshmukh, submits that the amount be utilized for a public cause by donating a portion of the amount to the High Court Dispensary at Aurangabad and the remainder portion to the crèche being operated in the Aurangabad Bench premises, we direct the Registry of the Aurangabad Bench to distribute the amount in equal proportion between the Dispensary and the crèche operated at the Aurangabad Bench.

(N.B.SURYAWANSHI, J.) (RAVINDRA V. GHUGE, J.)