IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13207 OF 2025

M/s. Dhansmruti Buildcon Pvt. Ltd. ….Petitioner

Versus

Maharashtra Housing Development Corporation & Anr. ….Respondents

Mr. Abhijit Kulkarni a/w. Mr. Chinmay Patil and Mr. Shahnawaz Siddique, for the Petitioner.

Mr. Ritesh Kalra a/w. Mr. Anish Khandekar i/b. Vanguard Law Group, for Respondent No.1-MHDC.

Mr. P. P. Kakade, Addl. GP a/w. Ms. P. N. Diwan, AGP for the Respondent – State.

CORAM : RAVINDRA V. GHUGE
&
HITEN S. VENEGAVKAR, JJ.

DATE : 22nd APRIL, 2026

P.C.:

1. On 16/04/2026, we have passed the following order :

> "*Prima facie, we find several disputed questions involved in this matter, and one of them goes to the root of the dispute, viz., whether the housing construction is of inferior quality. A structural audit report is shortly expected from the Maharashtra Housing and Area Development Authority (MHADA).*

> *2. We, therefore, record that if there are disputed issues and Maharashtra Housing and Area Development Corporation Ltd. is to take a stand that no amounts are payable, we would not be entertaining this Petition. If MHADA admits a particular amount and which payment could be made, this Petition would be entertained only to that extent.*
>
> *3. List this Petition, in the urgent supplementary board, on **22.04.2026** for hearing and orders.*"

2. We are informed that in the second sentence in the second paragraph of our order dated 16/04/2026, Respondent No.1 is wrongly mentioned as 'MHADA'. We are informed that Respondent No.1 is Maharashtra Housing Development Corporation (MHDC).

3. Leave to correct the description of Respondent No.1. Correction be carried out forthwith. Re-verification is dispensed with.

4. Paragraph 2 of our order dated 16/04/2026, would read as under:

> 'We, therefore, record that if there are disputed issues and Maharashtra Housing Development

> Corporation is to take a stand that no amounts are payable, we would not entertain this Petition. If MHDC admits a particular amount and which payment could be made, this Petition would be entertained only to that extent.'

5. The order dated 16/04/2026, be corrected accordingly, and the corrected order be uploaded.

6. Today, MHDC has tendered a purshis dated 22/04/2026, which is taken on record and marked as '**X-1**' for identification. It is set out in the X-1 that all alleged claims (monetary claims) of the Petitioner, are specifically denied.

7. It does not call for a debate that if a Private Company or Contractor approaches this Court for release of payments of bills or recovery of payments or release of amounts, this Court ought not to act as a recovery agent, unless any amount is admissible. It is in the light of the prayers that we had mentioned in our order dated 16/04/2026, that if there is any admissible amount payable by MHDC to the Petitioner, we would facilitate such payment by entertaining the Petition only to that extent.

8. Considering the purshis (X-1), the MHDC has rejected the entire monetary claim of the Petitioner. Thus, the monetary claim of the Petitioner is disputed and will have to be adjudicated upon. The Petitioner will have to approach the Civil Court for filing a Recovery Suit.

9. In view of the above, with the liberty available to the Petitioner, this Petition is being disposed off.

10. However, after the dictation of the above paragraphs in the open Court, on the basis of the oral submissions advanced by the learned counsel appearing for the respective parties, the learned advocate for the Petitioner tendered written submissions and requested that the same be taken on record and be considered. Though we had already indicated that the Writ Petition was not being entertained, we, nevertheless, accepted the written submissions tendered on behalf of the Petitioner.

11. In the written submissions, the Petitioner has reiterated that there exists an admitted liability in its favour, which, according to the Petitioner, is discernible from the communication dated 19

September, 2025 issued by the Director-Technical. It is submitted that the Director-Technical is the competent authority under the tender conditions and that the respondents have not denied the contents of the said communication. On that basis, the Petitioner contends that the Respondents have admitted the liability to the extent of Rs.136,40,24,421.39. It is further submitted that the said communication also indicates that funds to the tune of Rs.401,72,17,400.43/- are urgently required for the ongoing project. According to the Petitioner, the failure of the respondents to act upon such admitted liability is arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

12. The Petitioner has further contended that the defence of paucity of funds is untenable, since the project is under the Pradhan Mantri Awas Yojana, which is a centrally funded welfare scheme. It is submitted that once funds have been released by the Union Government to the State Government, the State cannot avoid its liability by contending that Respondent No.1 is merely an executing agency. It is also submitted that the suggestion of the State Government that Respondent No.1 should raise loans for clearing dues, is contrary to the very framework of a centrally sponsored

welfare scheme. The Petitioner has also urged that Respondent No.1 cannot rely upon alleged lapses of its Project Management Consultant, as the consultant is only an agency appointed by Respondent No.1 for measurement, certification, billing and progress reporting. According to the Petitioner, such internal administrative arrangements cannot defeat the Petitioner's entitlement.

13. The Petitioner has also invoked the doctrine of legitimate expectation. It is submitted that the Petitioner participated in the tender process on the basis of the scheme structure, tender conditions, Government Resolutions and parliamentary disclosures indicating availability of central funds. According to the Petitioner, withholding payment at this stage frustrates such legitimate expectation and also adversely affects the progress of a public welfare project.

14. In support of the above submissions, reliance is placed on ***Food Corporation of India and another vs. SEIL Ltd. & Ors.***[1], to contend that a public authority cannot unjustly enrich itself by

1 (2008) 3 SCC 440

retaining the benefit of work executed by a contractor without making payment. Reliance is also placed on ***ABL International Ltd. vs. Export Credit Guarantee Corporation of India Ltd.***[2], to contend that a Writ Petition is maintainable even in contractual matters where the State acts arbitrarily. Further reliance is placed on ***Popatrao Vyankatrao Patil vs. State of Maharashtra***,[3] to submit that a Writ of Mandamus can be issued even in respect of a monetary claim where the liability is admitted and refusal to pay is arbitrary.

15. We find that, these authorities undoubtedly recognise that the bar against entertaining Writ Petitions in contractual matters, is not absolute. However, they do not lay down that every disputed money claim arising out of a contract with a public authority must be entertained under Article 226, even when the very liability is disputed. ***Food Corporation of India & Anr.*** (supra) was a case wherein the Court found a clear public law element and unjust enrichment in the facts of that case. ***Popatrao Vyankatrao Patil*** (supra) was concerned with refund where the factual position was substantially borne out by official reports and ***ABL International*** (supra) itself cautions that writ jurisdiction in contractual matters is

2 (2004) 3 SCC 553
3 (2020) 19 SCC 241

discretionary and depends upon the existence of arbitrariness and the nature of factual controversy.

16. The legal position, as it stands, is that a Writ Petition arising out of a contract is not barred merely because the relationship between the parties has a contractual origin. At the same time, the High Court, while exercising jurisdiction under Article 226, ordinarily does not adjudicate disputed questions of facts, examine measurements, scrutinise bills, determine the quality or quantity of work, decide whether certificates are validly issued, or undertake quantification of contractual dues. In ***Uttar Pradesh Power Transmission Corporation Ltd. vs. CG Power and Industrial Solutions Ltd.***,[4] the Supreme Court reiterated that monetary relief may be granted in an appropriate Writ Petition, but the High Court would ordinarily refrain from exercising writ jurisdiction where the matter involved disputed questions of fact requiring evidence.

17. In ***Joshi Technologies International Inc. vs. Union of India***[5], the Supreme Court explained that while the State and its instrumentalities are not immune from judicial review merely

4 (2021) 6 SCC 15
5 (2015) 7 SCC 728

because they act in the contractual field, purely private law disputes arising from contracts, particularly where adjudication requires examination of contractual obligations and evidence, are normally to be resolved before the ordinary civil forum or the contractually agreed forum. Similarly, in ***State of Bihar vs. Jain Plastics and Chemicals Ltd.***[6], the Supreme Court held that writ jurisdiction is not the proper remedy for enforcing contractual obligations where disputed questions arise and the party has the remedy of a civil suit.

18. In the present case, respondent No.1 has filed a purshis dated 22/04/2026 categorically stating that it has not admitted any liability as alleged by the Petitioner. Once the very foundation of the Petitioner's case, namely a purported admitted and crystallised liability, is denied, this Court cannot treat the claim as an admitted money claim merely on the basis of the Petitioner's interpretation of correspondence dated 19/09/2025. Whether the said correspondence constitutes an admission; whether the Director-Technical had authority to bind respondent No.1 finally; whether the amount claimed is payable; whether the work was completed as per contractual specifications; whether the Project Management

6 (2002) 1 SCC 216

Consultant certified the bills in accordance with the contract; whether any defects, inferior quality, incomplete work, deductions or counterclaims exist; and whether the Petitioner is entitled to the precise amount claimed, are matters which would require evidence and adjudication.

19. The Petitioner's argument founded on legitimate expectation also cannot convert a disputed contractual money claim into an enforceable public law right. Legitimate expectation may be relevant where a public authority departs from a declared policy, representation or consistent practice in a manner that is arbitrary. However, in the present matter, the Petitioner seeks actual payment of a quantified contractual amount. Such claim cannot be granted unless liability is first adjudicated. The doctrine of legitimate expectation cannot be used to bypass the ordinary adjudicatory process where the basic facts and liability are disputed.

20. We are, therefore, unable to accept the submission that the present Writ Petition falls within the exceptional category where a Writ of Mandamus can be issued for payment of money. The authorities relied upon by the Petitioner would have assisted the

Petitioner only if the liability was admitted, crystallised and undisputed, or if the refusal to pay was demonstrably arbitrary on admitted facts. That is not the position here. Respondent No.1 has expressly denied the claim. The claim is contractual, monetary and disputed. Its determination would require pleadings, evidence and adjudication of factual and contractual issues. This exercise cannot be undertaken in writ jurisdiction under Article 226 of the Constitution of India.

21. Even after considering the written submissions tendered on behalf of the Petitioner, we find no reason to alter the view already taken by us. **This Petition is disposed off**.

22. The Petitioner is at liberty to pursue such remedies as are available in law, including a civil suit or any other appropriate proceeding for recovery of its alleged dues. We have expressed no opinion on the merits of the Petitioner's monetary claim. All contentions of the stake holders in that regard are kept open.

(HITEN S. VENEGAVKAR, J.) **(RAVINDRA V. GHUGE, J.)**

SONALI MILIND PATIL Digitally signed by SONALI MILIND PATIL Date: 2026.04.27 17:48:45 +0530