
(2009) 01 SC CK 0069

In the Supreme Court Of India

Case No : Civil Appeal No. 477 of 2009 (Arising out of SLP (C) No. 3162 of 2006)

Kamlakar Bhimrao Patil

APPELLANT

Vs

Maharashtra Industrial Dev. Corpn.

RESPONDENT

Date of Decision : 28-01-2009

Acts Referred:

Citation : AIR 2009 SC 1396 : (2010) AIRSCW 437 : (2009) 1 CTC 833 : (2009) 2 JT 40 : (2009) 6 MLJ 1136 : (2009) 2 SCALE 48 : (2009) 2 SCC 655 : (2009) 1 SCR 665

Hon'ble Judges : Asok Kumar Ganguly, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : V.A. Bobde, V.A. Mohta, Rajshekhar Govilkar, Naveen Chawla, Mayank Bughani and T. Mahipal, for the Appellant; Shyam Diwan and Fox Mandal and Co., for the Respondent

Final Decision : Dismissed

Judgement

Arijit Pasayat, J.—Leave granted.

2. Challenge in this appeal is to the order passed by a Division Bench of the Bombay High Court dismissing the writ petition filed. The writ petition was filed by the appellant questioning legality of the order passed by the Maharashtra Industrial Development Corporation (in short the `Corporation') dated 30.3.2005.

3. Background facts in a nutshell are as follows:

By Resolution dated 17.8.2004 a decision was taken for allotment of land at a particular price. The money was deposited on 9.3.2005 but letter dated 30.3.2005 was written to M/s. Everest Realtors Private Ltd. intimating them that the request for allotment of land in the Airoli, Navi, Knowledge/Apparel Park cannot be considered. The pay orders submitted along with letter dated 9.3.2005 were returned. According to the appellant no reason or basis has been indicated and the High Court misconstrued the prayer in the writ petition as if it was for enforcement of specific performance of contract with the Corporation. The

appellant has categorically stated that the subject matter of challenge was the impugned decision taken by the Corporation to repudiate the contract. The High Court erroneously, according to the appellant came to hold that it can be considered by a civil court of competent jurisdiction.

4. Learned Counsel for the appellant further submitted that no reason has been indicated as to why the Corporation decided not to go ahead with the contract.

5. Learned Counsel for the Corporation on the other hand submitted that the Corporation decided not to take any note of the payments made by M/s. Everest Realtors Private Ltd. In fact the Resolution earlier related to the present appellant.

6. It is clarified by learned Counsel for the appellant that he is a Director of the Pvt. Ltd. Co. and therefore, the reasons indicated have no relevance.

7. We find that this is a case which could have been decided by the High Court and therefore we set aside the impugned order of the High Court. The writ petition shall be restored for disposal on merit. To avoid unnecessary delay, let the parties appear before the High Court on 9.2.2009. The Hon'ble Chief Justice of the High Court is requested to direct listing of the petition before an appropriate bench. It is made clear that we have not expressed any opinion on the merits of the case. Till 9.2.2009 no third parties' interest shall be created by the Corporation. It is open to the High Court to pass such interim orders during the pendency of the writ petition as the circumstances warrant.

8. The appeal is accordingly disposed of.