

**IN THE INSURANCE COURT, AT MUMBAI**  
**BEFORE S. B. DIGE, JUDGE.**

**APPLICATION (ESI) No. 3 of 2025**  
**(CNR NO. C01-000035-2025)**

M/s. Lodha Dwellers Pvt. Ltd.

...Applicant

**Versus**

Employees State Insurance Corporation

...Opponents

**ORDER BELOW EXH. 2**

( Passed on 07.01.2026 )

**01.** By this application, the Applicant has prayed to grant interim reliefs mentioned therein.

**02.** Opponent Corporation has filed written say at Exh. 9 and strongly opposed the application. It is requested that said application be rejected and Applicant be directed to furnish balance amount as bank guarantee to secure the claim of Corporation.

**03.** Perused the application and say. Heard both sides. Following points arise for determination to which findings are recorded with reasons as follows :

|    | <b><u>POINTS</u></b>  |    | <b><u>FINDINGS</u></b> |
|----|---|----|------------------------|
| 1) | Whether the Applicant has made out a strong <i>prima facie</i> case in his favour?              | :- | In the Affirmative.    |
| 2) | Whether the balance of convenience lies in favour of the Applicant?                             | :- | In the Affirmative.    |
| 3) | Whether irreparable loss would be caused to the Applicant if the interim relief is not granted? | :- | In the Affirmative.    |
| 4) | What order?   | :- | As per final order.    |

**:- R E A S O N S :-**

**As to Point Nos. 1 to 3:**

**04.** Learned Advocate of the Applicant has argued that ESI Corporation has issued show cause notice in Form C-18 (Ad-hoc basis) dated 07.03.2022 determining the contribution amount of Rs. 26,71,169/- towards contribution for the period 2017 to 2021. Then, the Corporation has issued Order dated 19.04.2023 under Section 45-A of the said Act determining contribution payable by Applicant amounting to Rs. 18,51,350/- for the period commencing from April-2018 to September-2021. The said demand is totally wrong. The Corporation has issued Prohibitory Order under Section 45-H of the said Act for recovery of Rs. 27,98,898/- from the Applicant, commencing

from the year 2018 till 2023. Hence, these orders are issued without verifying the factual position, without compliance of natural justice, hence they are unjust, illegal and bad in law and required to be quashed. The Corporation has recovered entire amount of demand / order dated 07.03.2022. Hence it is requested that prayer clauses mentioned in the interim application may kindly be allowed till the decision of main application.

**05.** Per contra, the learned Advocate of Opponent has argued that the Applicant's establishment failed to deposit the contribution of employees since disputed period. Therefore, the Opponent Corporation has made investigation and concluded that the impugned amounts liable to be recovered from him. Therefore, the notice was issued and after regular compliance the order under Section 45-A of the said Act came to be passed. As the Applicant failed to comply the said order, therefore show-cause notices under challenge came to be issued against the Applicant which are just, legal and proper. Hence, Applicant has no *prima facie* case and balance of convenience is not in his favour. Ultimately, there is no question of irreparable loss. Hence, the interim relief as prayed by the Applicant may kindly be rejected and he be directed to pay the remaining amount by bank guarantee to secure the entire amount.

**06.** To grant interim relief is the discretionary power and such discretion has to be exercised on well established principle of law. It is settled principle of law that there are some parameters to grant the interim relief. To grant or refusal to grant interim relief in the application filed under Section 75 of the ESI Act, is covered by three well established principles viz. (i) whether Applicant has made out a strong *prima facie* case?, (ii) Whether the balance of convenience lies in its favour?, and (iii) Whether the Applicant would suffer irreparable loss in absence of any interim relief? The burden to prove these three points primarily lies on the Applicant. Interim relief shall not be granted to the Applicant if he is guilty of delay or engaged in suppression of some material facts. The Applicant seeking interim relief must approach the Court with clean hands and the Court has to see whether the claim is bonafide and whether it is fair and substantial question is to be tried. At the same time, it is also to be born in mind that prejudice is likely to be caused if interim relief is not granted in favour of Applicant.

**07.** Record shows that order dated 07.03.2022 under Section 45-A of the ESI Act, 1948 shows that the Opponent Corporation has directed the Applicant to pay contribution totaling the amount of Rs. 26,71,169/- including interest. Then the Corporation has demanded Rs. 18,51,350/- by Order dated 19.04.2023 and Rs. 27,98,898/- by order dated 29.11.2023. The

Applicant has submitted that the first amount of Rs. 26,71,169/- is already recovered by the Corporation. In Misc. Application (ESI Exmp) No.28/2024, order dated 16.01.2025, my learned Predecessor has observed that almost entire amount under order dated 07.03.2022 is recovered by the Corporation. Thus, mere about 50% amount of total demand amount is already recovered by the Corporation. Now applicant is challenging all demands amounts and as per submission, Corporation is intending to take coercive steps. The Application (ESI) will take its own time.

**08.** Under such circumstances, if the interim reliefs are not granted then there is apprehension that the Opponent may proceed to initiate further proceedings by way of coercive method and then very purpose to raise the dispute against the Opponent will be frustrated and there would be irreparable loss. Considering all these aspects it is held that the Applicant has strong *prima facie* case and balance of convenience lies in his favour. If the interim relief is not granted, the Applicant would suffer irreparable loss. On the other hand, if the impugned orders and show-cause notices are stayed till the decision of main application, there would be no prejudice to the Opponent Corporation as 50% amount is already recovered from the Company. Hence, in the interest of justice Point Nos. 1, 2 and 3 are recorded in Affirmative and to answer Point No. 4 following order is passed:

**ORDER**

- i. Application (Exh. 2) is allowed and its prayer Clause (A) to (D) are granted till the decision of the main application.
- ii. Parties to bear their own costs.
- iii. Dictated on computer and pronounced in open Court.

Dated :- 07.01.2026

Place :- Mumbai

SPC/-

**(S. B. Dige)**  
Judge  
ESI Court, Mumbai.