

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION (ST) NO. 3037 OF 2024**

City and Industrial Development Corporation of  
Maharashtra Ltd. .. Petitioner

**Versus**

Special Land Acquisition Officer and Ors. .. Respondents

**WITH**

**WRIT PETITION (ST) NO. 3058 OF 2024**

City and Industrial Development Corporation of  
Maharashtra Ltd. .. Petitioner

**Versus**

Special Land Acquisition Officer and Ors. .. Respondents

**WITH**

**WRIT PETITION (ST) NO. 3061 OF 2024**

City and Industrial Development Corporation of  
Maharashtra Ltd. .. Petitioner

**Versus**

Special Land Acquisition Officer and Ors. .. Respondents

**WITH**

**WRIT PETITION (ST) NO. 3062 OF 2024**

City and Industrial Development Corporation of  
Maharashtra Ltd. .. Petitioner

**Versus**

Special Land Acquisition Officer and Ors. .. Respondents

**WITH**

**WRIT PETITION (ST) NO. 3063 OF 2024**

City and Industrial Development Corporation of  
Maharashtra Ltd. .. Petitioner

**Versus**

Special Land Acquisition Officer and Ors. .. Respondents

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- Ms. P.M. Bhansali, Advocate for Petitioner – CIDCO.
- Mr. Vijaysihn Deshmukh, Officer of the CIDCO is present.

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**CORAM : MILIND N. JADHAV, J.**

**DATE : JANUARY 31, 2024.**

**P.C.:**

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** Heard Ms. Bhansali, learned Advocate for the Petitioner – CIDCO.
- 3.** The present group of 5 Writ Petitions are filed by the Petitioner – City and Industrial Development Corporation (for short “CIDCO”) challenging the twin orders dated 23.01.2024 and 29.01.2024 both passed by the Civil Judge, Senior Division, Alibag for attachment / issuance of warrant of attachment in Special Darkhast Proceedings filed by the Respondents who are original Claimants.
- 4.** Ms. Bhansali would submit that the necessity to seek urgent ad-interim order had arisen yesterday in view of the issuance of warrant of attachment under Order XXI Rule 46 of the Code of Civil Procedure, 1908 (for short “CPC”) against CIDCO who is the Garnishee in the Special Darkhast Proceedings. Order incidentally is dated 23.01.2024 passed by the Civil Judge, Senior Division, Alibag. She would submit that all 5 Land Acquisition References namely Land Acquisition Reference Nos.15 to 2007 to 19 to 2007 filed by the

Claimants / Original owners / Respondents were decided by the Judgment and decree rather Award of the Reference Court dated 10.07.2023 whereby compensation awarded to the original Claimants was enhanced to Rs.2,000/- per square meter. She would submit that Execution Application was filed as Special Darkhast Applications by the Claimants / Decree holders for execution of decree dated 10.07.2023 in all five Land Acquisition References. She has immediately drawn my attention to the averments made in paragraph No.11 of the Writ Petition, wherein it is stated that CIDCO i.e. Petitioner before me was not impleaded as a party in the Execution Proceedings. Next she has drawn my attention to the 5 impugned orders which are all dated 23.01.2024 passed by the Executing Court wherein the learned Executing Court has rather passed an alarming order stating that CIDCO being Agent of the State Government and not being personally interested entity would not have any right to claim an audience for hearing and therefore for not meeting the liability of compensation, reasonable ground was made out by the decree holders / Claimants to allow the Application and as a consequence of which warrant of attachment has been issued against CIDCO being a Garnishee.

**5.** The only consideration which has weighed before the Executing Court is that the role of CIDCO being a Garnishee is only to the extent of the Agent of the State Government. This consideration incidentally has been carved out from the decision of the Division

Bench of this Court in Letters Patent Appeal No.184 of 2010 in Writ Petition No.1211 of 2009 filed by CIDCO which finds its mention in paragraph No.9 of the impugned order.

**6.** Be that as it may, the impugned order in the same breath, in paragraph No.11 records and notes that being a Garnishee every possible opportunity was given to CIDCO from 20.12.2023 to 23.01.2024 which is a period having a tenure of less than one month. If the learned Executing Court is of the opinion that every opportunity was given to CIDCO, then it ought to have done that in letter and spirit.

**7.** On 20.12.2023, CIDCO pointed out to the Executing Court that a substantive Writ Petitions challenging the Reference Awards are pending before this Court.

**8.** Admittedly the five Reference Awards are in challenge in this Court. The right of CIDCO in Special Darkhast Proceedings filed before the Executing Court stands rejected merely on the ground that sufficient time is given.

**9.** CIDCO's reply at least ought to have been considered by the Executing Court, but even without the said reply being on record, the impugned order orders dated 23.01.2024 are passed by the Executing Court.

**10.** After reading the pleadings and the orders, *prima facie*, I am of the opinion that the impugned orders are harsh in the facts of the present case which are alluded to herein above.

**11.** All 5 impugned orders all dated 23.01.2024 in the 5 Special Darkhast Proceedings are therefore stayed by this Court. Undoubtedly, the decree holder / Claimants will definitely be heard by this Court.

**12.** Issue notice to the Respondents. Humdast permitted.

**13.** In addition to Court notice, Petitioner - CIDCO is permitted to serve a copy of the Petitions and this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

**14.** Respondents are directed to remain present in Court on the next adjourned date either by themselves or through Advocates.

**15.** Respondents are directed to file their Affidavit-in-Reply on or before the next date, if so desired.

**16.** I am informed that urgency of this order is necessitated because further steps in execution of the warrant of attachment granted under the impugned orders are being taken and the Bailiff of the learned Trial Court is at the doorstep of CIDCO as informed by Ms.

Bhansali on instructions of Mr. Deshmukh, Officer of CIDCO.

**17.** In view of the above order, it is directed that no coercive steps shall be taken against CIDCO until this Court hears the present Writ Petitions, which shall be determined finally at the stage of admission itself on the next adjourned date.

**18.** Stand over to **07<sup>th</sup> February, 2024.**

**19.** Parties are directed to act on an authenticated copy of this order.

[ MILIND N. JADHAV, J. ]

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