

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION
CIVIL APPLICATION NO.3416 OF 2005
IN
WRIT PETITION NO.3052 OF 2003

The State of Maharashtra & Anr. ... Applicants
V/s.
Kumar Mohit Burman ... Respondent

a/w
CIVIL APPLICATION NO.3417 OF 2005
IN
WRIT PETITION NO.2803 OF 2003

The State of Maharashtra & Anr. ... Applicants
V/s.
M/s.Bharat J. Vyas ... Respondent

a/w
CIVIL APPLICATION NO.3420 OF 2005
IN
WRIT PETITION NO.2806 OF 2003

The State of Maharashtra & Anr. ... Applicants
V/s.
Dabur India Ltd. ... Respondent

CIVIL APPLICATION NO.3421 OF 2005
IN
WRIT PETITION NO.1684 OF 2003

The State of Maharashtra & Anr. ... Applicants
V/s.
Michighan Engineers Pvt. Ltd ... Respondent

Mr.P.S. Cardozo, AGP for Applicants
Mr.Sunil Jayakar for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**
(VACATION JUDGE)

DATED: **DECEMBER 29, 2005**

P.C.:

. These Civil Applications have been filed for
extension of time to vacate the suit premises. When the

Writ Petitions were rejected by this Court, the Petitioners were allowed to remain in possession and the respondents were directed not to execute the decree till 31.12.2005. These writ petitions were disposed off on 23.6.2004. An affidavit of Shri Shivaji Kisan Chavan, Under Secretary (Labour), Government of Maharashtra, Industries, Energy and Labour Department was filed on 21.7.2004 stating that vacant and peaceful possession of the suit premises would be handed over to the respondents on or before 31.12.2005 was filed. The order of this Court was challenged before the Apex Court. The Apex Court dismissed the Special Leave Petitions on 20.9.2004. Applications for review were filed on 22.12.2004 which were also dismissed. Therefore, it was expected that the Government of Maharashtra would vacate the suit premises by 31.12.2005.

2. The present Civil Applications have been filed on 22.12.2005 seeking extension of time to vacate the suit premises.

3. According to the Petitioners, they are shifting the Directorate of Steam and Boilers from the 3rd floor of the Commerce Center by availing the premises at Richardson & Cruddas Limited. An Affidavit has been

filed in each Civil Application by Tatoba Maruti Kolekar, Under Secretary (Labour), Industries, Energy and Labour Department, Mantralaya stating that the State Government has found these premises suitable and that the process of approving the rent, formalising the agreement with Richardson & Cruddas Limited is yet to be considered. However, Ms. Cardozo, appearing for the Petitioners, states that there would be no impediment in completing all the necessary procedure and the Directorate of Steam & Boilers shifting to these premises. The affidavits also contain a statement that the quotations from various contractors have been received in order to dismantle the cabins in the suit premises and shift them to the new premises. The expenditure which would be incurred for the purposes of shifting from the suit premises has been mentioned in the affidavits. According to the affiant, the Labour Commissioner's office and the Factory Inspector's office are occupying the suit premises. They would shift out of these premises and occupy the premises of the Directorate of Steam and Boilers who would in turn shift to Richardson and Cruddas Limited. All this would take at least nine months, according to the affiant and therefore, it is prayed that the time to vacate the premises be extended.

4. The Respondents have filed their replies in Civil Application Nos.3421 of 2005, 3420 of 2005 and 3417 of 2005, which are taken on record. The learned Advocate appearing for the Respondents submits that firstly there can be no variation of the orders passed by the learned Single Judge in the Writ Petitions which have been confirmed by the Supreme Court. He submits that a Civil Application cannot be moved in a writ petition which has been disposed off. In any event, according to the learned Advocate, the order cannot be varied by means of Civil Applications filed in the Vacation. He then submits that when undertakings have been given by the Government, it is expected to act on the same and there can be no variation of the undertakings by extension of time. According to him, the Government should have prayed that it be released from the undertakings and then should have prayed for extension of time. He relies on the judgments in the case *Cutler v/s. Wandsworth Stadium Ltd.*, ALL E.L.R 1945 Vol.1 103 and the case of *Shanti Sarup Gupta v/s. Anjuman I.Ashria*, AIR 1982 SC 1461.

5. It is no doubt true that once an undertaking has been given by a party, the party is expected to fulfill that undertaking and to comply with the averments made in the affidavit containing the undertaking. However,

in view of the special circumstances of the present case, wherein the Departments of Government would have to shift to the new premises which entail shifting of records, books, etc, I am of the view that the Government may be given time till 31.5.2006 to shift from these premises. There is no doubt that this Court had directed that no further extension of time would be given and the Supreme Court had similarly rejected the Petitions filed by the Government. However, in view of the averments made in the affidavits of Tatoba Maruti Kolekar, Under Secretary (Labour), Industries, Energy and Labour Department, Mantralaya filed on 28.12.2005 & the special circumstances of the case, the Government is given time to vacate the premises upto 31.5.2006. The undertakings contained in the affidavits dated 28.12.2005 are accepted.

6. Civil Applications are disposed off accordingly.