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6. Chief Conservator of Forest,  
(Wild Life), Secretary of the State Level  
Steering Committee for Management of  
Mangroves and Coral Reefs having its  
Office at Dr. B.R. Ambedkar Bhavan,  
MECL, Seminary hills, Civil Lines,  
Nagpur 440 001
7. Mumbai Metropolitan Region Development  
Authority, a statutory authority having  
its office at MMRDA Building, Bandra Kurla  
Complex, Bandra (E), Mumbai 400 051
8. Navi Mumbai Municipal Corporation  
(NMMC), 1<sup>st</sup> floor, Legal Dept,  
Belapur Bhavan, Opp. CBD Belapur  
Railway Station, Navi Mumbai - 400614
9. Collector, Thane  
1<sup>st</sup> floor, Court Naka,  
Thane (W) - 400601
10. Tahasildar, Thane  
Opp. Zilla Parishad Office,  
Thane - 400601
11. Om Shree Vinayak CHS Ltd  
Plot No.56, Sector 50B,

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Nerul, Navi Mumbai, Dist. Thane

12. Dhanraj CHS Ltd.

Plot No.121, Sector 50, Nerul Node,

Navi Mumbai, Dist. Thane

13. M/s. Goodwill Developers

Through its proprietor

Mr. Hakim a. Lakdawala,

23, 2<sup>nd</sup> floor, Mahaveer Centre,

Above Golden Punjab Hotel,

Sector 17, Vashi, Navi Mumbai -

400705

14. The City and Industrial Development

Corporation of Maharashtra

Having its office at 2<sup>nd</sup> Floor,

Nirmal Building, Nariman Point,

Mumbai- 400 021

15. Shree Kashiram Laxman Chinchecha

16. Shree Moreshwar Laxman Chinchecha

17. Smt. Vatsala Laxman Chinchecha

18. Shree Vishwanath Laxman Chinchecha

The Heirs of deceased

Smt. Shantabai Laxman Chinchecha,

all residing at Dongri Lane, Chinchecha House,

Near Vetar Mandir, Versova,

was



Andheri (W), Mumbai - 400081

19. Shree Vijay Krishnaji Sawant

21/22, Aarsa Shopping Centre,

S.V. Road, Andheri (W),

Mumbai - 400058

20. Meera Bhayander Municipal Corporation

Nagar Bhawan, Phatak Road,

Bhayander (W), Mumbai 401101

... Respondents

TAKE NOTICE that this Hon'ble Court will be moved before Their Lordships the Hon'ble Mr. Justice \_\_\_\_\_ and Hon'ble Mr. Justice \_\_\_\_\_ on the \_\_\_\_\_ day of June 2016 at 11.00 O'Clock in the forenoon or soon thereafter so the counsel appearing on behalf of the Applicant (Original Respondent No.7) can be heard for the following orders:

- a) That this Hon'ble Court be pleased to grant leave to the Applicant/Respondent No.7, Mumbai Metropolitan Region Development Authority, for carrying out construction of the proposed Mumbai Trans Harbour Link (a proposed 22 km freeway grade road bridge connecting the island city of Mumbai with Navi Mumbai) in accordance with the Stage-I (in principle) approval dated 22.01.2016, granted by the Ministry of Environment and Forest, Government of India (at Exhibit-D of the Affidavit in Support), by diverting 47.417 ha of forest land (including mangroves) and in accordance with the CRZ clearance bearing No.11-65/2011-IA.III dated 25.01.2016 granted by the Ministry of Environment, Forest and Climate change, Government of India (at Exhibit-E to the Affidavit in Support) and in line with similar leave granted by this

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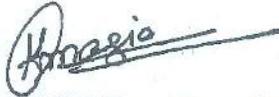


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Hon'ble Court in pursuance of the Order dated 27<sup>th</sup> January, 2010 passed by this Hon'ble Court (at Exhibit-H colly to the Affidavit in Support);

- b) Costs of this Notice of Motion;
- c) Any other orders/ directions in furtherance of Justice as deemed fit by this Hon'ble in facts and circumstances of the present case

This Notice of Motion is taken out at )  
 the instance of Vidhii Partners, Advocates )  
 for the Applicant /Petitioner having their )  
 office at Ground floor, Construction House, )  
 5, Walchand Hirachand Marg, Ballard Estate, )  
 Mumbai - 400 001 )



for Vidhii Partners, Advocates  
 (Advocates for Applicant / Respondent No.7)

To,

1. State of Maharashtra
2. Union of India

Through the Ministry of Environment & Forest

3. The Coastal Zone Management Authority
4. The Brihanmumbai Mahanagarpalika
5. The Collector, Mumbai
- 5A The Collector Mumbai having its
6. Chief Conservator of Forest,  
 (Wild Life), Secretary of the State Level  
 Steering Committee for Management of  
 Mangroves and Coral Reefs





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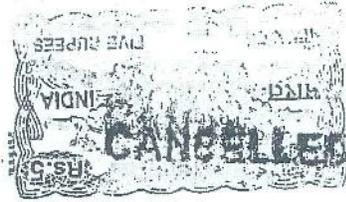
7. Mumbai Metropolitan Region Development Authority
8. Navi Mumbai Municipal Corporation
9. Collector, Thane
10. Tahasildar, Thane
11. Om Shree Vinayak CHS Ltd
12. Dhanraj CHS Ltd.
13. M/s. Goodwill Developers
14. The City and Industrial Development Corporation of Maharashtra
15. Shree Kashiram Laxman Chinchecha
16. Shree Moreshwar Laxman Chinchecha
17. Smt. Vatsala Laxman Chinchecha
18. Shree Vishwanath Laxman Chinchecha  
The Heirs of deceased  
Smt. Shantabai Laxman Chinchecha,
19. Shree Vijay Krishnaji Sawant
20. Meera Bhayander Municipal Corporation

NB: The affidavit of Mr. Milind H. Paranjape, the Executive Engineer of the Applicant/Respondent No.7, solemnly affirmed on 8<sup>th</sup> day of June 2016 shall be used in support of this Notice of Motion.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
NOTICE OF MOTION NO. OF 2016  
IN  
PUBLIC INTEREST LITIGATION NO.87 OF 2006

Mumbai Metropolitan  
Region Development Authority ... Applicant

In the matter between:

Bombay Environmental Action Group & Anr. ... Petitioners  
Versus  
The State of Maharashtra & Ors. ... Respondents

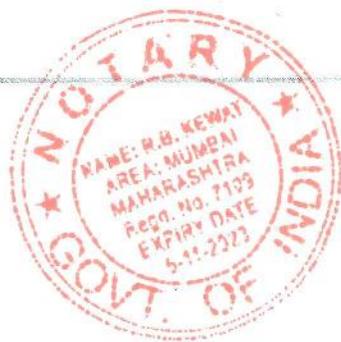
AFFIDAVIT IN SUPPORT

I, Mr. Milind H. Paranjape, the Executive Engineer of the Respondent No.7/  
Applicant having my office address at MMRDA Office, Plot No. R-5, 6 & 12, E-  
Block, Bandra Kurla Complex, Bandra (East), Mumbai 400051, do hereby state  
and submit on solemn affirmation as under:

1. I say that the Applicant is the Mumbai Metropolitan Region Development Authority (MMRDA), established in accordance with the Mumbai Metropolitan Development Act, 1974, on 26th January, 1975. I say that since its inception, the Applicant is engaged in long term planning, promotion of new growth centers, implementation of strategic projects and financing infrastructure development. The object behind establishing the Applicant Authority was to make the city of Mumbai a destination for economic activity by promoting infrastructure development and improving the quality of life. I say that in particular, the Applicant conceives, promotes and monitors the key projects for developing new

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growth centres and brings about improvement in sectors like transport, housing, water supply and environment in the Region.

2. I say that, I am the Executive Engineer of the Applicant above named and am well versed with the facts and circumstances of the captioned matter. Further, I am competent and duly authorized by the Applicant to file the present Notice of Motion on behalf of the Applicant.
3. I say that the Applicant has been appointed as the implementing agency for the proposed Mumbai Trans Harbour Link (hereinafter referred to as "MTHL") project by the Respondent No. 1.
4. I say that the need for a sea bridge connecting the island city with the mainland was felt as far back as 1963. I say that transportation and traffic planning for Greater Bombay was commissioned to Wilbur Smith & Associates in the year 1962 who, after extensive studies over 18 months, submitted a detailed report to the Government of India with recommendations which included *inter alia* recommendations for the construction of a sea link connecting the island city with Navi Mumbai.
5. I say that the origin of Mumbai (Island City) - Uran (Main Land) transport link goes back to 1970, when it was first recommended in the Draft Development Plan. Subsequently, committees were formed in 1972 and 1978 to study the possible alternatives for establishing the Transportation Links across the harbour. The Committees identified alternative routes, a northern route linking Sewri with Nhava and a southern route linking Colaba with Uran, and suggested necessary engineering studies for the

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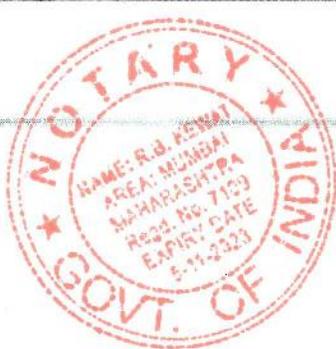


alternative routes. A Steering Group was constituted in February 1981, under the Chairmanship of Mr. J.R.D. Tata. The Steering Group reviewed the earlier studies and recommended that priority should be given to the construction of a link between Sewri and Nhava. In 1982, an International Consortium of Consultants led by Peter Frankael and Partners (PFP), UK, was appointed by the Steering Group to carry out a feasibility study and to prepare detailed project report for the proposed Mumbai Trans-Harbour Link (MTHL). PFP submitted their feasibility study report in 1983. Six alternative alignments between Sewri on the Mumbai island city side and Nhava on the main land (Navi Mumbai) were identified and studied. All the alignments started from Sewri.

6. I say that Mumbai's peculiar geographical spread imposes constraints on expansion; its great job potential has nevertheless attracted migrants from many parts of the country. The result has been severe housing shortages, lack of open spaces and civic amenities and transport bottlenecks. As per the 2011 census, the population of Mumbai is 12.25 Million. The port, market, industries, offices and above all increasing population has considerably overloaded the rail and road transportation infrastructure of the city, causing innumerable commuting hardships as well as severe strain on the city's civic services resulting in extremely poor living conditions for the majority of residents. The northern & north eastern parts of Greater Mumbai are likely to be saturated in the near future. I say that the pressure on the rail and road network can be relieved only by redirecting part of the movement into an east-west (towards Navi Mumbai) orientation. I say that due to the peculiar geography of the city,

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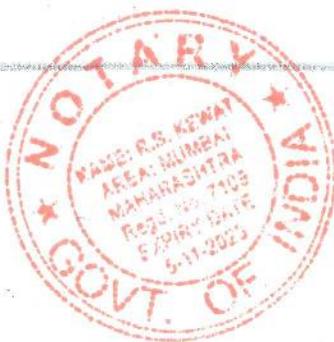
this can only be achieved by taking positive steps to encourage the development of residential areas on the mainland on the coast.

7. I say that the need for the project stems from the undisputed fact that island city of Greater Mumbai is already overcrowded and congested. The only solution to prevent the existing conditions from worsening is to expand on to the mainland, which to a limited extent, has already occurred in the northern half of Navi Mumbai. This is however, insufficient, and a major push to the development of the rest of Navi Mumbai can be given only by providing quick access to the southern half of Navi Mumbai. The southern half of Navi Mumbai is having 2,500 hectares of land, which will benefit most in terms of commuting time by the construction of the Link between mainland and south of Mumbai. When completed, MTHL will reduce the distance between the island and the mainland and travel time.

8. I say that at present, there are two road links connecting Mumbai to Navi Mumbai- Airoli bridge and Vashi bridge and both these links together are near saturation and are not equipped to meet the combined future projected traffic, thereby necessitating creation of additional links to meet traffic growth. In this context, the proposed MTHL has become a necessity. I say that the Applicant has carried out its own Comprehensive Transportation Study in July 2008 which has suggested the need of MTHL. Regional Plan for Mumbai Metropolitan Region also identifies MTHL as an important and imperative aspect. I say that from this perspective, the MTHL project will not merely provide a most efficient solution to Mumbai's acute transportation and accommodation problem, but will

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provide the most viable solution open to the city for its survival and sustainable growth as the Economic Capital of the country.

9. I say that the MTHL is a proposed 22 km freeway grade road bridge connecting the island city of Mumbai with Navi Mumbai, its satellite city. I say that when completed, the MTHL would be the longest sea bridge in India. The MTHL will start from the Mumbai Port Trust Area with an interchange at Sewri on the Mumbai side and will end at NH-4B at Chirle Village near Nhava Sheva. The link will be a 3+3 lane elevated bridge consisting of 16.5 km long creek bridge with 5.5 km viaducts on land on either side. I say that entry and exit into the 6 lane freeway would be through the inter changes at the end points and at the intermediate points on the Navi Mumbai side. I say that the total estimated cost for the MTHL project is approximately Rs. 17843.22 Crore (As on January 2016 as per Minutes of Discussion (MoD) dated 22.01.2016 signed between Japan International Cooperation Agency (JICA) and MMRDA). Graphical and pictorial representation of the proposed MTHL are hereto annexed and marked as Exhibit 'A'.

10. I say that the proposed MTHL has been planned to facilitate decongestion of the island city of Mumbai by improving connectivity with the main land (Navi Mumbai). I say that the MTHL has also been proposed and planned keeping the development of the Navi Mumbai region in mind.

11. I say that 14.48 km (66%) of the MTHL alignment falls in creek water, 2.1 km (12%) passes through mudflats and 4.92 km (22%) alignment is on land. I say that the MTHL alignment passes through part of mangrove

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areas, reserve forest and private forest land on the Sewri and Navi Mumbai side. I say that the mangroves forest area diversion admeasures 1.30 ha on the Mumbai (Sewri) side and 37.28 ha on the Navi Mumbai side along with additional reserve and private forest land admeasuring 8.837 ha making the total forest area diversion 47.417 ha.

12. I say that, though the total area of mangroves contemplated in the forest diversion approval is 38.58 Ha (i.e. 1.30 Ha on Sewri side and 37.28 Ha on Navi Mumbai side), MMRDA has planned for compensatory afforestation of total 47.417 Ha on non-forest land identified in four villages Morbe Tal. Panvel, Wanjle Tal Sriwardhan Ranvali Tal. Sriwardhan and Durtoli Tal. Roha at the project cost. The cost of NPV of forest land Rs.4,45,24,563/- and cost of compensatory plantation Rs. 2,14,03,323/- is deposited with the Forest Department on 22.03.20016. In addition, as recommended by Coastal Zone Management Authority, the Respondent No. 3 herein, it has been decided to undertake compensatory mangrove plantation on 223 Ha (about more than 5 times of the mangrove area proposed for diversion) through Forest Department's Mangrove Cell at the project cost. I say that MMRDA has already deposited Rs. 49.59 lakh with Chief Coservator of Forest, Mangrove Cell, Mumbai for compensatory plantation of 30 Ha mangrove. Further it is assured that, the required amounts will be deposited to Forest Department as and when demand is raised by CCF Mangrove.

13. I say that, the actual footprint area envisaged for permanent occupation for bridge piers/ramps on mangroves will be about 2.0 Ha in mangrove area. However, the actual area of mangrove that would be disturbed would



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depend on the size and number of piers and methodology of construction adopted which will be decided later on by the Contractor being a Design-Build contract. There may also be some disturbance to mangroves during construction period. However, proliferation of mangroves is expected after completion and permanent foot print over the mangroves to the extent of bridge piers/ramps will be minimal. Despite the same, as stated above, the MMRDA, as a bona fide measure, is carrying compensatory mangrove plantation of 223 Ha for entire 38.58 Ha mangrove area.

14. I say that the Bombay Natural History Society (BNHS), an expert institution, is proposed to be appointed for addressing and assisting in various measures of environmental management. I say that EIA studies have been carried out and environmental concerns relating to the project have been considered by various expert authorities, in furtherance of which, specific mitigation measures have been stipulated in all regulatory clearances granted to the Applicant from time to time, to ameliorate any adverse environmental impact due to the MTHL project construction in addition to which, the Applicant has suo moto proposed various mitigation measures.

15. I say that the MTHL project was first accorded Environmental Clearance under the CRZ Notification 1991 and EIA Notification 1994 vide letter dated 11<sup>th</sup> March 2005. However, the MTHL project could not take off due to irrational offers received from bidders. I say that subsequently, CRZ Clearance dated 19<sup>th</sup> July 2013 was issued under the CRZ Notification 2011 based on the recommendations of the Maharashtra Coastal Zone

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Management Authority (hereinafter referred to as "MCZMA") vide their letter dated 15<sup>th</sup> June 2012.

16. I say that pursuant to order passed by the Hon'ble National Green Tribunal remitting the MTHL project back to the Ministry of Environment & Forests, Government of India for fresh consideration, the MCZMA has considered the proposal for MTHL afresh and granted recommendation to the MTHL project vide letter dated 26<sup>th</sup> November 2015 bearing reference no. CRZ-2015/CR 236/TC 4, a copy of which is hereto annexed and marked as Exhibit 'B'.

Ex B

17. I say that the Forest Advisory Committee (FAC) in its meeting dated 24.11.2015 considered the proposal for MTHL and the report prepared by BNHS regarding the same wherein the matter was referred back to the State Board of Wildlife, Government of Maharashtra (SBWL). I say that the SBWL in its meeting dated 04.12.2015 ratified and approved the alignment of the MTHL and the mitigation measures pursuant to which, the Chief Conservator of Forests, Government of Maharashtra was pleased to recommend the project vide letter dated 11.12.2015 a copy of which is hereto annexed and marked as Exhibit 'C'

Ex C

18. I say that the proposal was thereafter considered in threadbare detail from all aspects by the Expert Appraisal Committee (EAC), Ministry for Infrastructure Development, Coastal Regulation Zone, Building/ Construction and Miscellaneous Projects in meetings held on 22-23 December and 30<sup>th</sup> December 2015.

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19. I say that the FAC was also pleased to accept the recommendation and mitigation measures pursuant to which the Ministry of Environment & Forests, Government of India (MoEF) was pleased to grant Stage-I (in principle) approval to the diversion of 47.417 ha of forest land (including mangroves) falling in the Right of Way of the MTHL project vide their letter dated 22.01.2016, a copy of which is hereto annexed and marked as Exhibit 'D' subject to terms and conditions mentioned therein applicable to such category of project.

Ex D

20. I say that on 25.01.2016, the Ministry of Environment, Forest and Climate Change, Government of India was pleased to grant CRZ Clearance bearing no. 11-65/2012-IA.III in terms of the provisions of the CRZ Notification 2011 under the Environment (Protection) Act, 1986, subject to terms and conditions stipulated therein. A copy of the CRZ Clearance dated 25<sup>th</sup> January 2016 is hereto annexed and marked as Exhibit 'E'.

Ex E

21. I say that subsequent to the MTHL project being granted CRZ clearance on 25<sup>th</sup> January, 2016, the Project Proponent i.e. MMRDA vide their letter dated 09.03.2016 sought clarification from the Ministry of Environment, Forest and Climate Change as to whether the said project required environmental clearance (EC) under the EIA Notification 2006. Pursuant to the same, the Ministry of Environment, Forest and Climate Change issued office memorandum dated 21<sup>st</sup> March, 2016 stating that there is no necessity for prior EC for standalone bridges, such as envisaged under the MTHL project, as per the provisions of the EIA notification 2006. A copy of the said office memorandum issued by the Ministry of Environment,

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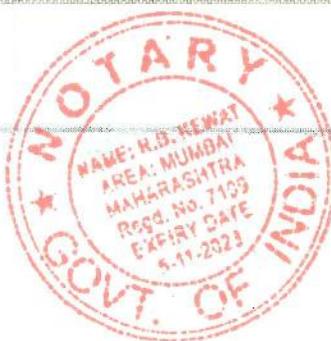
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Forest and Climate Change dated 21<sup>st</sup> March, 2016 is hereto annexed and marked as Exhibit 'F'.

22. I say that as per Condition (ix). of the Stage-I (in principle) approval dated 22.01.2016 to the diversion of 47.417 ha of forest land (including mangroves) falling in the Right of Way of the MTHL granted by the MoEF (Exhibit D), the Applicant is approaching this Hon'ble Court seeking permission for cutting of mangroves in terms of the order dated 27<sup>th</sup> January 2010 passed by this Hon'ble Court in the captioned PIL No. 87 of 2006. This Hon'ble Court in paragraph 8 of the said order held as follows:

*8. So far as the grievance of the applicants, as regards permission which is sought to be granted by the authorities is concerned, we make it clear that nothing prevents the statutory or local and private bodies and their contractors to approach the competent authorities to seek permission for their respective projects as required in accordance with the law for the projects which are likely to affect mangroves area in the State of Maharashtra as specified in mapping of mangroves whereby mangrove areas stand delineated and the authorities on such an application being filed, would consider it strictly in accordance with law in the light of the interim orders passed by this court from time to time and keeping in mind principle of sustainable development. If such permission is granted by the competent authority the same shall be subject to approval of this court and the parties should obtain leave of the court before implementing the project in mangroves area. This will enable the court to monitor whether the principle of sustainable development is being scrupulously followed or not for the preservation, protection of mangroves area which is ecologically fragile area.*

yes

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I say that it is evident from a bare perusal of the above reproduced para 8 that permission to construct in mangrove affected areas may be granted by the competent authority and that the same shall be subject to approval of this court wherein the parties should obtain leave of the court before implementing the project in mangroves area. A copy of the order dated 27<sup>th</sup> January 2010 is hereto annexed and marked as Exhibit 'G'.

Ex G

23. I say that this Hon'ble Court has been pleased to grant similar permissions in fit cases wherein the Applicants/Project Proponents have sought to execute projects of *bona fide* public utility and have sought to take commensurate mitigation measures in respect of diversion of forest land, clearing of mangroves, etc. Hereto annexed and marked as Exhibit 'H' (Colly.)' are copies of the said orders.

Ex H

24. I say that the Applicant has suo moto proposed the following mitigating measures to ameliorate any adverse environmental impact due to the construction/ execution of the MTHL project:

- i. Construction in mud flat areas will involve use of temporary steel bridge/jetty parallel to the permanent structure for transportation of personnel, construction materials, pre cast elements, machinery, etc on either ends so as to cause minimal disturbance to eco sensitive mud flats and mangroves. This will cost about Rs. 300 to 500 Crores itself and will be part of the Contract conditions.
- ii. No embankment to be used in the construction of the bridge alignment; the bridge is proposed as a sea link with viaducts. Therefore, only the foot print area occupied by the piers/piles/ramps would be affected.

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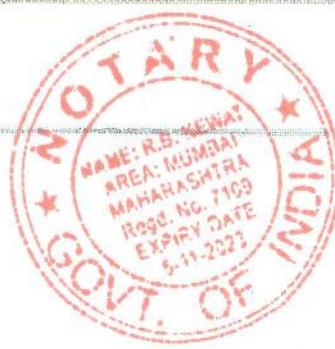
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- iii. Compensatory mangrove plantation to be carried out through the Forest Department at the cost of the project proponent/user agency.
- iv. Mangrove restoration program in suitable areas to be taken up by the MMRDA through the Forest Department.
- v. Use of pre cast/fabricated units for superstructure to avoid effect on mudflats by minimizing construction activity on mud flats and also to avoid supporting system from sea bed.
- vi. As far as possible during construction, construction machinery movement (barges, etc) to bypass locations having migratory birds.
- vii. Construction machinery/equipment to be fitted with mufflers/exhaust silencers to contain noise produced along with provision of enclosures and intake silencers.
- viii. DG sets, if used, to adhere to noise standards as laid down by the MoEF.
- ix. Illumination of bridge carriage way in the mudflat stretches is proposed at low level (inner side of railing/noise barrier) to avoid disturbance to bird habitat at night.
- x. Excavated soil to be disposed off at designated/approved dumping sites located far from the mud flat areas.
- xi. No burning of waste in open air to be allowed during construction.
- xii. Implementation of surveillance management and monitoring program during construction to prevent any adverse impact on migratory birds.
- xiii. No cable stayed bridge proposed to allow free and unhindered movement of birds.
- xiv. Appointment of bird monitors during construction and even after completion of the project till the baseline levels are achieved.

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- xv. Creation of an Environment Monitoring Cell comprising MMRDA officials and experts to monitor the impact on environment during construction as well as operation.

25. I say that the expert authority, BNHS had suggested the following mitigation measures vide their report dated 23.09.2015:

- i. Construction on both ends which are passing through mudflats and mangroves must not exceed 15-18 months maximum from start date of the work to limit the disturbance period.
- ii. The distance between the supporting pillars is to be maximized (depending on the engineering consideration) from current 50 m so as to reduce number of pillars within first 4 km and last 4 km of bridge which passes through mudflats and mangroves.
- iii. Bridge should be cable free so as not to affect the free flight movement of flamingos and other water birds.
- iv. Debris in any form should not be dumped in mudflat and mangrove areas of Sewri, Thane creek and Nhava and other parts of Sewri Bay under any circumstances.
- v. Debris disposal plan to be developed in which debris disposal sites to be clearly demarcated.
- vi. Transportation of construction material to be facilitated from Sewri Jetty to avoid disturbance to mudflats.
- vii. A clear plan for construction to be provided before the work begins.
- viii. As far as possible, the spans to be pre fabricated at sites which are away from ecologically sensitive zones and brought in by barges.
- ix. Utmost care to be taken to ensure that mangroves and mudflats on either side of the bridge are not disturbed.



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- x. Though it is recognized that it may be beyond the mandate of MMRDA under the current project, the Respondent No. 1 must facilitate establishment of a mechanism to clean up the Sewri Mudflats and Thane Creek through integrated effluent treatment plant/plants.
- xi. Habitat quality assessment and monitoring of the conservation/mitigation measures during construction are to be continued till 5 years after completion so as to ascertain the impact of MTHL on flamingo and roosting areas.
- xii. A corpus fund to be allocated towards Mud Flat restoration.
- xiii. A walkway will have to be created north of jetty for tourists and other visitors to view the flamingos. No commercial establishment (temporary or permanent) should be permitted in and around the walkways. MMRDA should set aside corpus fund for the work. Corpus funds are essential for long term maintenance of the walkway.

26. I say that, the Forest Advisory Committee of MoEF has referred back the proposal to the State Government to take views of SBWL which has initially engaged BNHS to conduct study. I say that the SBWL has considered the BNHS report in its meeting held on 04.12.2015, wherein following decisions were taken and accepted by MMRDA;

- i) The original alignment as proposed by MMRDA is approved.
- ii) All the Wildlife Mitigation measures as proposed by BNHS in their report dated 23/09/2015 are approved for original alignment of MTHL with following modifications;



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- iii) Construction of jetty on both the ends passing through mudflats and mangroves must not exceed 30 months and construction of actual span must not exceed more than further 12 months.
- iv) The distance between the supporting pillars shall remain 50 m as currently proposed by MMRDA.
- v) MMRDA will partly bear the cost of setting of effluent treatment plant in the region as suggested by BNHS.

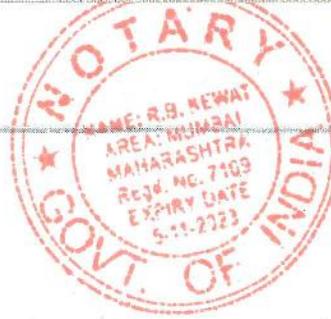
27. I say that pursuant to the decision of the SBWL on 22.06.2015, MMRDA has made adequate provision to implement the mitigation measures proposed by MMRDA, BNHS, MoEF in the Environment Management Plan (EMP) estimated to cost Rs. 335 Crores. I say that the EMP is also submitted to MoEF. As such, MMRDA is ready to invest 2% amount of project cost towards Environmental and Forest protection and conservation issues including mudflat and mangrove restoration.

28. I say that the Applicant presented the EMP proposal with the following mitigation measures along with course of action with regards the same and estimated cost which is set out herein below in a tabular format:

Sr. No.	Environmental attribute	Remark	Cost (in Rs.)
1	Environmental Monitoring - Air Act, Water Act, Noise levels	Air Noise Water-Marine and Land Solid Waste Ecology and Eco system Fishing etc. - Quarterly during CP	8 crore

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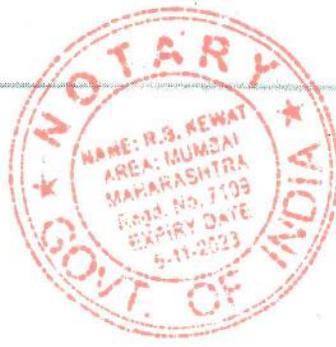


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Sr. No.	Environmental attribute	Remark	Cost (in Rs.)
2	Compensatory Mangrove Restoration Plan	With the help of Forest department	25 crore
3	Implementation of the suggestions given by BHNS	In accordance with their report	25 crore
4	Noise barriers	Along 4.5 x 2 = 9 Km stretch abutting mudflats where flamingos gather	45 crore
5	Mitigation of marine water pollution caused due to the surrounding industries and Sewage from Urban Bodies, by providing Funding and Capacity Building for enabling Effluent Treatment	Identifying sources, treatability report, implementation of restoration and ETP	40 crore
6	Contribution to Mangroves Fund, an initiative by Govt. of Maharashtra for	In accordance with their report this money will be deposited with GoM for restoration, conservation and	25 crore

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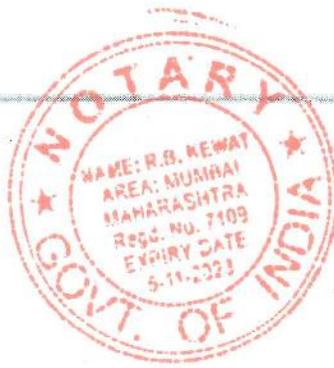


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Sr. No.	Environmental attribute	Remark	Cost (in Rs.)
	Conservation and Protection of Mangroves in Coastal areas by depositing Seed Money. This can be used for Survey & Demarcation of Notified areas; purchase of vehicles and equipments for anti Encroachment drives, etc.	protection of mangroves in coastal areas	
7	Oil Spill Mitigation Plan	State of the air, Oil Spillage mitigation equipment, etc.	10 crore
8	<ul style="list-style-type: none"> <li>▪ Habitat quality assessment and monitoring</li> <li>▪ Surveillance management and monitoring team for migratory birds, marine flora, turbidity in</li> </ul>	Carrying out detailed habitat quality monitoring of mudflats, migratory birds, marine flora and fauna and surveillance study	20 crore

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Sr. No.	Environmental attribute	Remark	Cost (in Rs.)
	sea floor, etc. ▪ Corpus fund for mudflat restoration program		
9	Appointment of Bird Monitor and his assistant till Restoration of Baseline data	Monthly monitoring during CP and Seasonal monitoring during OP	4 crore
10	<u>Disaster Management Plan (DMP), Fire fighting, Risk analysis</u>	Necessary equipment, Quick Response Vehicles etc. for implementation of the detailed DMP	15 crore
11	Sustainable development including establishing Nature Interpretation Centre	Establishing a centre for training and workshops at schools and college level	10 crore
12	Safety and Security	It includes setting up safety measures and security measures including telecommunication systems,	15 crore

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Sr. No.	Environmental attribute	Remark	Cost (in Rs.)
		safety boats, wireless communications etc for emergency	
13	Energy conservation	To use LED, Solar lamps on the bridge, ROW's etc	10 crore
14	Landscaping- Plantation of trees, flowering plants etc.	Along the entire bridge alignment	8 crore
15	Compensation and Capacity Building of Fisher folks due to Temporary and Permanent Loss of Fishing ground	Compensating affected fisher folk community welfare, etc.	75 crore
		Total provision in EMP	335 crore

29. I say that the Stage-I Forest Clearance granted by MoEF contained certain specific conditions to be complied with to alleviate any adverse environmental impact. I say that the Applicant has already taken steps, made budgetary allocations and set in motion action plans towards compliance with majority of the conditions aimed at mitigating the impact and safeguarding the environment, as is set out in a tabular format herein below:

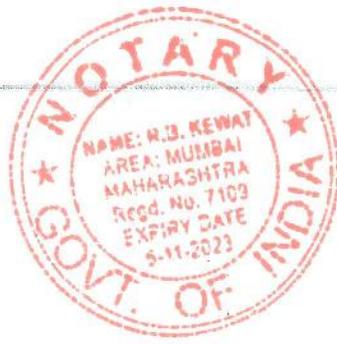


Action plan for compliance of terms and conditions stipulated in the Forest  
Clearance

Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
1	ii) Compensatory Afforestation (CA) over the non-forest land equal in extent to the forest land being diverted shall be raised and maintained by the State Forest Department at the cost of the User Agency.	Govt. of Maharashtra has allocated 47.417 ha non-forest land for CA in Raigad District. In village Morbe Tal. Panvel = 10-00-00 ha In village Wanjle tal Sriwardhan = 11-02-00 ha In village ranvali tal. Sriwardhan = 14-71-33 ha In village Durtoli tal. Roha = 11-68-37 ha Total = 47-41-70 ha  Possession of CA land to be taken by	Requested to the Forest Dept to take possession of CA land, communicate cost of plantation.

*WKS*

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
		Forest department from Collector Raigad. Payments to Revenue Dept.: NPV of non-forest land- Rs.1,51,60,711/- As conveyed by the Collector, Raigad vide letter dated 26.03.2013	
2	iii) The land identified for the purpose of CA shall be clearly depicted on a Survey of India topo sheet of 1:50,000 scale	Forest Dept. has shown proposed land of CA in Topo sheet of Survey of India. Confirmation to be obtained.	Requested to the Forest Dept. for providing required information
3	iv) The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation, at the current wage rate, to the State Forest	Payments to Forest Deptt.: Total cost of Plantation for CA - Rs.2,14,03,323/- As conveyed by	Payment for CA plantation is made to DCF Alibag by way of Demand Draft vide MMRDA's letter dated 22.03.2016

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
	Department. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years.	the DCF, Alibag vide letter dated 01.02.2016 Note: Cost of plantation is updated by Forest department to current rates Cost of plantation includes maintaining up to 10 years	
4	v) The State Government shall charge the Net Present Value (NPV) of forest land being diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No.202/1995 and the guidelines issued by this Ministry vide its letter	Payments to Forest Deptt.: NPV of forest 47417 land - Rs.4,45,24,563/-. As conveyed by the DCF, Alibag vide letter dated 01.02.2016	Payment of NPV of forest land is made to DCF Alibag by way of Demand Draft vide MMRDA's letter dated 22.03.2016

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
	No.5.3/2007-FC dated 05.02.2009 in this regard.		
5	vi) At the time of payment of the Net Present Value (NPV) at the then prevailing rate, the User Agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India	MMRDA's undertaking to Forest Dept in this regard is to be submitted	Prescribed format for undertaking is obtained from Forest Dept. and will be submitted while applying for Stage-II clearance.
6	vii) All the funds received from the User Agency under the project, shall be transferred to Ad-hoc CAMPA in the Saving Bank Account pertaining to the State concerned	MMRDA to deposit the NPV of forest land and cost of compensatory afforestation to Forest Department	The DCF, Alibag has deposited Rs. 4,45,24,563/- these payments received from MMRDA towards CA and NPV in Compensatory Afforestation Fund (CAF) Maharashtra in accordance to the guidelines prevailing in the Forest Department.

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
7	viii) The user agency shall take prior permission from Hon'ble National Green Tribunal before issue of Order for diversion of forest land in accordance with the Hon'ble Mumbai High Court, Nagpur Bench orders dated 27.04.2005 and 07.06.2006 in Writ Petition No.1277/200 as per which permission of Hon'ble High Court is necessary for taking up projects and activities in forest areas within 10 Km from protected areas in accordance with. Accordingly, this condition may be stipulated in the in-principle approval.	As the Eco-Sensitive Zone of Karnala Birds Sanctuary is notified and MTHL project falls outside of it, the applicability of this condition need to be verified	As MTHL project is out of notified eco-sensitive zone of Karnala Birds Sanctuary, the Forest Dept. requested to confirm on applicability of condition to obtain approval of Hon'ble NGT to the forest diversion proposal
8	x) The State Government / MMRDA shall implement the mitigation measures recommended by the BNHS	The mitigation measures suggested by BNHS are as	i. Forest department is requested to submit plans and estimate to



33

Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
	<p>as modified by the State Board for Wild Life, at the project cost. The state government shall identify the recommendations which are to be implemented by the state forest department, if any and cost of such activities shall be deposited with Ad-hoc CAMPA. For the activities to be taken activities will be taken up at the project cost.</p>	<p>follows:</p> <p>a. Utmost care should be taken to ensure that mangroves and mudflats on either side of the bridge are not disturbed.</p> <p>b. Monitoring program: Habitat quality assessment and monitoring of the conservation / mitigation measures during construction and 5 yrs after completion is necessary</p> <p>c. Mud flat restoration</p>	<p>MMRDA for implementation of mitigation measures related to mangroves, mudflats, restoration of Bird habitats, development of walkways around Sewri mangroves and setting of integrated effluent treatment plants etc.</p> <p>ii. MMRDA shall provide funds to Forest department for implementation</p> <p>iii. The mitigation measures related to Engineering point of view shall be incorporated in</p>

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
		<p>program: Mudflat maintenance is a complex subject requiring long term monitoring and intervention.</p> <p>A corpus fund to be allocated towards the same. BNHS is willing to assist MMRDA in implementing the mudflat restoration program upon completion of the project.</p> <p>d. Developing walkways around mangroves at</p>	<p>contract of work</p> <p>iv. MMRDA to partly bear the cost of setting of effluent treatment plant in the region as suggested by BNHS</p> <p>v. BNHS may be requested to guide / assist MMRDA and Forest Department in implementation of mitigation measures proposed in the project for conservation of mudflats, birds and their habitats.</p>

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
		Sewri bay: BNHS will assist in design and development of walkway on the north side of the jetty for tourists e. Setting of integrated effluent treatment plants in the region	
9	xi) Final notification for declaration of the area of 16.90 sq.km. in Thane creek of Thane district as sanctuary shall be issued before grant of Stage II approval. MMRDA shall contribute in establishment and management of the sanctuary, modalities for	Final notification on Thane Creek Birds Sanctuary is matter pertains to domain of Forest Dept.	Forest Dept. of Govt of Maharashtra to expedite for final notification

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
	which shall be worked out by the State government		
10	xii) Maharashtra Forest Department, through its Mangroves and Marine Biodiversity Conservation Foundation shall prepare a Mangrove and Marine Biodiversity Conservation Plan which shall be implemented at the project cost	Forest Dept. to prepare a Mangrove and Marine Biodiversity Conservation Plan. MMRDA has already requested CCF (Mangroves) Mumbai to prepare plan for mangrove plantation and implementation for the mangrove area falling in the alignment of MTHL. MMRDA agreed to provide funds to Forest Dept. basis of the plans and estimate approved by them	i. CCF Mangroves to prepare plans and estimate required for Mangrove and Marine Biodiversity Conservation Plan. ii. MMRDA to provide funds for compensatory mangrove plantation iii. CCF Mangroves has indentified 223 ha shore land for mangrove plantation. CCF Mangroves has communicated a demand of Rs. 49.59 Lakh towards proposed mangrove

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
			plantation on 30 ha in jurisdiction of Dahanu forest range. CCF Mangroves is working on cost estimate for the balance plantation scheme.
11	xiv) The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required	The CRZ clearance to the project is re-awarded by MoEF on 22.01.2016. MTHL project requires only CRZ clearance and Environmental Clearance is not required	MoEF has clarified that MTHL project will not require Environmental clearance apart from CRZ clearance issued on 25.01.2016.
12	xxii) The user agency in consultation with the State Government shall create and maintain alternate habitat / home for the avifauna whose nesting	State Board of Wildlife has recommended that MMRDA shall provide fund about 2% of	i. Forest Dept. is requested to provide the approved plans and estimates to MMRDA and



Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
	trees are to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project	<p>project cost to Forest Dept. for implementation of conservation of mangroves, birds habitation, forests.</p> <p>MMRDA has agreed to provide funds to Forest Dept. basis on approved estimates. And on approval of UDD of Govt of Maharashtra.</p> <p>The total of all the payments to be given to Forest Dept. shall be part of conservation plan and limited to max. 2% of project cost</p>	<p>implement avifauna maintenance program on receipt of funds</p>

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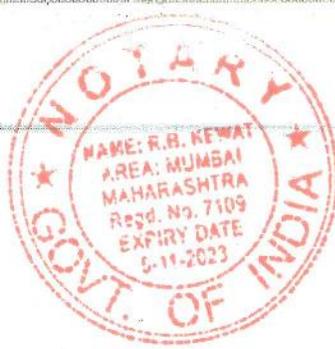
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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
13	xxv) Wherever possible and technically feasible, the User Agency shall undertake afforestation measures along the roads within the area diverted under this approval, in consultation with the State Forest Department at the project cost	General condition	i. This condition will be incorporated in contract document of MTHL work. ii. However, Forest Dept. is requested to propose specifications for the plantation, if any, in this regards.
14	xxvi) The reclamation of quarry should be done under the supervision of the State Forest Dept. The quarry shall be reclaimed and afforested completely before the project is closed	General condition	i. This condition will be incorporated in contract document of MTHL work. ii. Project specific guidelines are to be obtained from Forest Dept.
15	xxix) The User Agency will undertake comprehensive soil conservation measures at the project cost in consultation with the State Forest Dept.	General condition	i. This condition will be incorporated in contract document of MTHL work. ii. Project specific guidelines are to

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
			be obtained from Forest Dept.
16	xxi) The User Agency will assist the State Government in preservation of flora and fauna of the area in accordance with the plan prepared by the Chief Wildlife Warden of the State Attention will be particularly given to providing safe crossing and corridors for wildlife species and protecting sensitive habitat like wetlands, grasslands and woodlands from degradation. Where canopy continuity is required for particular species, special measures shall be prescribed by the CWLW for providing crossing points. Where certain trees used for	Same as point no.VII	Requested the Plans & estimates from Forest Dept.

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Sr. No.	Conditions of MoEF (no. & details)	Details	Action taken/to be taken
	nesting / rookeries of species like birds of prey, herons, storks, hornbills etc. are to be destroyed, alternative structure shall be provided and the trees transplanted		

30. I say that the MTHL project is one of great public utility and importance. I say that the MTHL project will directly and indirectly lead to the betterment of Mumbai Metropolitan Region, both from an economic and social perspective. I say that the Direct Benefits from MTHL are as follows:

- i. Savings in travel times for commuters from Mumbai to Navi Mumbai.
- ii. Improved comfort and accessibility between the island and the mainland.
- iii. Reduced operating costs of vehicles due to lesser congestion.
- iv. Accelerated growth of Navi Mumbai.
- v. Smooth traffic flow from Navi Mumbai airport to Mumbai Island.

I say that the indirect benefits from MTHL are as follows:

- i. Rationalization of real estate prices in Greater Mumbai.
- ii. Increased demand for and better utilisation of land in Navi Mumbai.



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- iii. Accelerated economic development of Navi Mumbai and nearby regions.
- iv. Greater economic integration of Mumbai island city with Navi Mumbai and extended regions of Pune, Panvel and Alibag.
- v. Decongestion of Mumbai Island and dispersal of population to Navi Mumbai region and beyond.
- vi. Environmental improvement and reduced pollution levels.
- vii. Improved safety due to reduction in accidents
- viii. Improvement in trade and trade competitiveness through faster and improved logistics.

31. I say that the proposed Mumbai Trans Harbour Link will therefore serve not only as an economic gateway to Navi Mumbai but also a panacea for the problems being faced by Mumbai. Navi Mumbai would therefore emerge as a vibrant satellite city to Mumbai in the same way as Gurgaon and Noida have emerged as satellites to New Delhi. A number of developmental initiatives have been proposed in the Navi Mumbai region that will not only give rise to additional traffic movement, but also accentuate the need for greater economic integration of Mumbai Island with Mainland Mumbai. Some of the key infrastructure facilities proposed and / or already developed are as follows.

- i. Navi Mumbai Integrated Special Economic Zone (SEZ)
- ii. International airport at Navi Mumbai
- iii. New container terminals at Jawaharlal Nehru Port Trust (JNPT) at Nhava Sheva
- iv. Thane Vashi, Thane-Nerul and Nerul-Uran Rail link
- v. Central Business District - Talaja-Khandeshwar-ring metro

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vi. Trans Thane Creek Industrial Area

Navi Mumbai is also well connected through rail and road links with Pune, Nasik and Thane, indicating the potential for the region to develop into a satellite city. I say that in this context, the proposed MTHL connecting Sewri to Nhava Sheva is expected to be a key driver in the development of the city by decongesting it. The link would help reduce the problems of congestion and pollution in Mumbai Island.

32. I say that the project has been accorded with Stage-I (in principle) approval to the diversion of 47.417 ha of forest land (including mangroves) falling in the Right of Way of the MTHL and CRZ Clearance in terms of the provisions of the CRZ Notification 2011 under the Environment (Protection) Act, 1986 by the MoEF and the Applicant has proposed various mitigation measures as set out hereinabove, steps in furtherance of which are already being taken and/or set in motion. I say that the project is of great economic importance to not only the city of Mumbai but to the country as a whole.

33. I say that there is an urgent need of intervention by this Hon'ble Court to grant approval to the permission for cutting of mangroves and construction in mangrove affected areas as granted by the competent authorities to the Applicant, in terms of the order dated 27<sup>th</sup> January 2010 (Exhibit F) and subsequent orders granting permission in fit cases (Exhibit H & Colly) passed by this Hon'ble Court. I say that such approval is of utmost urgency, keeping the magnitude of the project, the sizeable investments already made in the same and the need for speedy commencement of the same.

Yes

Yes



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34. I say that in view of what is stated hereinabove urgent interim/ ad-interim reliefs be granted to the Applicant.

35. In view of the aforesaid, I pray that this notice of motion be made absolute with costs.

Solemnly affirmed at Mumbai )

Dated this 8<sup>th</sup> day of June 2016

Subit Chakrabarti  
Advocates for Applicants

Identified by me

Subit Chakrabarti  
Advocate for Applicants

Devkar  
Before me  
10/06/2016  
C. K. Pasnime  
Associate  
High Court, Bombay

Sr. No. 64  
Date 08.6.16  
8

Solemnly declared/affirmed/ sworn	on	<u>8</u>	day of
<u>June</u>	at	<u>6</u>	o'clock
by	<u>Milind Khaspe</u>	who is	identified by
Advocate for	<u>Applicant</u>	by	<u>Subit</u>
			<u>Advocate</u>
Note: (i) <u>Authority Letter</u> <u>6/6/16</u> (ii) <u>Seal of court</u> <u>6/6/16</u> and it is sealed to be in force passed by <u>6/6/16</u> Court of <u>High Court</u> Department of <u>Quarantine</u>			

4/5





MUMBAI SUBURB

46



PROPOSED AREA FROM MUMBAI TRANS HARBOUR LINK AREA

LOCATION: **OPK RING**  
 N 12 80000 1 070 80000  
 N 12 80000 1 070 80000

REFERENCE

Sl. No.	Name of Village	Area							
1	PROPOSED AREA FROM MUMBAI TRANS HARBOUR LINK AREA								

TRUE COPY  
 For the Partners  
 Advocates

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**EXHIBIT-B**

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Exhibit 'B'

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(9)

**MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY**

Tel. No. : 2285 2696  
e-mail : mahamczma@gmail.com

No. CRZ 2015 /CR 236/ TC 4  
Office of the -  
Maharashtra Coastal Zone Management Authority,  
Environment Department, 15<sup>th</sup> floor, New  
Administrative Building, Mantralaya,  
Mumbai- 400 032.

Date: 26<sup>th</sup> November, 2015

To,  
✓ Director (IA-III), Coastal Zone Regulation  
Government of India,  
Ministry of Environment, Forests & Climate Change,  
Indira Paryavaran Bhavan,  
Jor Bagh Road, New Delhi - 110 003.

Received by CR Section  
Ministry of Environment, Forests & Climate Change  
Government of India  
Indira Paryavaran Bhavan,  
Jor Bagh Road, New Delhi

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**Subject:** Proposed Mumbai Trans Harbour Link (MTHL) project by  
Mumbai Metropolitan Regional Development Authority  
(MMRDA)

The proposal of Mumbai Trans Harbour Link (MTHL) project by Mumbai Metropolitan Regional Development Authority (MMRDA) was considered in 107<sup>th</sup> meeting of the MCZMA held on 7<sup>th</sup> November, 2015.

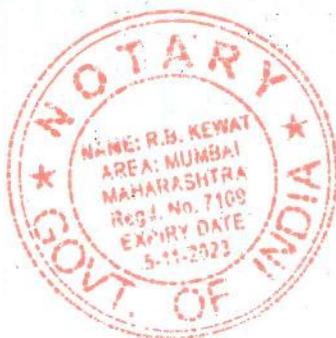
2. The Additional Metropolitan Commissioner, MMRDA presented the proposal of Mumbai Trans Harbour Link (MTHL) before the Authority, in light of judgment dated 15.10.2015 of the Hon. NGT, Western Zone, Pune given in the appeal no. 4/2013. He stated that the NGT, Pune has set aside the CRZ clearance accorded to the said project by MoEF, New Delhi with a direction to remit the matter to MoEF to consider it afresh. The NGT, in particular has ordered to examine the impacts of the project on mangroves ecosystem, habitat of flamingos, mudflats besides other impacts. Hon. NGT has also directed to ascertain whether provisions of EIA Notification, 2006 are applicable to the said project. He further stated that directions have been given to MoEF to take decision independently on merit in eight (8) weeks and CRZ clearance given to the project by MoEF has been kept in abeyance for six (6) months.

3. The MMRDA officers presented the proposal before the Authority covering issues like impacts on flamingos, mudflats, mangroves, fisheries etc. and mitigation measures along with Environmental Management Plan. It was stated that Salim Ali Centre for Ornithology and Natural History has carried out studies on Flamingos and other migratory birds in the Sewri-Mahul and Nhava Mudflats in the Dec, 2008 and suggestions / observations of the report would be complied with during construction & operation phase of the project. He also informed that MMRDA has formulated a committee to assess the impact of the proposed activity on fishing communities and compensatory policy for them. Rapid Environment Impact Assessment report prepared in the year 2012, Coastal Zone Management plan prepared by IRS, Chennai, mitigation measures proposed by IRS, Chennai and report of CWPRS pertaining to the hydrodynamics is submitted.

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4. The MCZMA noted that as per the CZMP, the 22 Km long & six lane carriageway MTHL project passes through CRZ I, CRZ II and CRZ IV. The Sewri end of the 1.5 km alignment having chainage 1.0 to 2.5 Km passes through mudflats, sparse mangroves and abuts the flamingos breeding site. Further it was stated that the Nhave end of the 0.6 km alignment having chainage-16.98 to 17.5 km also passes through mudflats and sparse mangroves. As per the report, 14.48 km (66%) alignment falls in creek water, 2.1 Km (12%) passes through mudflats and 4.92 km (22%) alignment is on land. CRZ1 areas particularly Sewri mudflat and shivaji nagar mudflat are ecological important. The mangroves area affected at Sewri end is 576 Sqm and is 9306 Sqm at Chirle side of the proposed Sea link.

5. During presentation on EIA report & other documents, the Authority observed that typically major construction work will be done in sea area by water transportation. The approach jetties at the two ends will be in the form of piled jetties falling less obstruction to water flow. Large number of precast units will be used. As regards to CWPRS report, it was noted that i) the hydrodynamic model was well validated with actual tide, current observations ii) the centre to centre distance between two piers is large (typically 50 meters) causing minimum obstruction to the flow. Further, only small reduction in the current strength immediately upstream and downstream (upto 400 m or so) of the bridge piers was seen. From the consideration of currents, only Pir Pau Jetty may face maximum 10% reduction. iii) Most of the vital installations in the harbor channel and thane creeks, such as Mumbai and JN port, BARC Jetty, Mazgoan Dock, Oil jetties of the Jawahar dweep are less likely to get affected in terms of water levels, tidal flux and currents. As the strength and pattern of the current may not appreciably change beyond the vicinity of the MTHL piers. The sediment transport process at vital installations may not get affected.

6. The Authority further observed that to protect the bird habitat and ensure minimize damage into the mudflat area, viaducts are proposed instead of embankments in the mudflat area. The piers for the viaduct would occupy small area on mudflat and hence would not cause serious erosion. However, these pillars would alter biological diversity and invite large variety of benthic algae enabling formation of secondary community as result of ecological succession. To minimize disturbance to ecological important mudflats, it is observed that operations in the mudflats or intertidal zones would be done by using temporary jetty which will be parallel to permanent structure in the Right of Way for the transportation of labour, construction material, precast elements, machinery etc on the either ends. As per the report presented, in order to avoid the disturbance to mudflats & bird habitat especially flamingos, no reclamation in mudflats or in the water area on Sewri and Navi Mumbai side is proposed. As per the report, it is observed that all construction equipments fully fitted with mufflers and exhaust silencers to contain the noise levels. Machinery used during construction should be properly maintained to minimize the air and noise emissions. MMRDA has also proposed noise barriers of 3 m height on both side of the sea link passing through mudflat area. It is also proposed that construction machinery movement would bypass the locations having habitation of migratory birds during construction.

7. The Authority further observed that post construction vegetation of the mangroves below viaduct in mudflat area on either side will be conserved and protected to maintain ecosystem integrity. MMRDA would develop a corpus-fund for restoration of mudflat and bird habitat.



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Further, bird monitoring and management plan is proposed to be evolved before construction activity which will comprise monitoring of active construction area, listing of bird species, monitoring during pile driving and other construction activities etc. Mangroves restoration programme /compensatory afforestation on 7 Ha. Suitable areas will be taken by MMRDA through Forest Dept/ Mangroves cell. The Authority also observed that casting yard is proposed in CRZ I (mangroves) and CRZ II area and opined that casting yard to be shifted from CRZ I (mangroves area)

8. The Authority also discussed the applicability of the Environment Clearance under EIA Notification, 2006 and opined that though activity per se is not covered in EIA Notification, 2006, however, considering the scale and ecological settings of the project area, MoEFCC, New Delhi may decide appropriately on the applicability of the EC for the said project.

9. After detailed deliberation on the submissions of the MMRDA & directions of the Hon. NGT, Pune, the Authority decided to recommend the project from CRZ point view under the provisions of CRZ Notification, 2011 to MoEFCC, New Delhi for appropriate consideration subject to compliance of following conditions:

**Specific conditions:**

- i. MMRDA to ensure that mangroves restoration on the identified areas is undertaken immediately through Mangroves Conservation Cell, Mumbai.
- ii. MMRDA to explore the possibility of increase in the distance between two piers of viaduct in the mudflat area, which may be more than 50 m. This will minimize the disturbance in ecologically important mudflats and bird habitat area.
- iii. The Sewri End of the Jetty should be used for transportation of construction material to avoid disturbance to the mudflats.
- iv. No reclamation is allowed in CRZ I & CRZ IV area except for viaducts & piers. MMRDA should ensure the same.
- v. MMRDA to install noise barriers of 3 m height on both side of the Sealink passing through CRZ I ( mudflat & mangroves area ) and CRZ IV area.
- vi. Casting yard proposed on 16.15 ha on mangroves area on Navi Mumbai side should be shifted from CRZ I (mangroves area).
- vii. MMRDA to ensure that Construction activities near flamingo habitat area may be restricted to the season when flamingos are not on the site or not in larger flocks.
- viii. MMRDA to ensure that all construction equipments are fully fitted with mufflers and exhaust silencers to contain the noise levels. Machinery used during construction should be properly maintained to minimize the air and noise emissions.
- ix. MMRDA to ensure that minimum damage is caused to mangroves ecosystem.
- x. MMRDA to ensure that operations in the mudflats or intertidal zones will be done by using temporary jetty which will be parallel to permanent structure in the Right of Way for the transportation of labour, construction material, precast elements, machinery etc on the either ends.
- xi. MMRDA to declare entire MTHL as 'No Honking area'
- xii. MMRDA to ensure that no hoardings are allowed to displayed on the MTHL to avoid disturbance due to light illumination to Marine flora, fauna and birds during night.

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- xiii. MMRDA should take the expert opinions from the BNHS regarding safeguards to be placed so as to mitigate the disturbance to flamingo's habitat.
  - xiv. MMRDA to formulate a Environment Cell (EMC) to monitor impacts on environment during construction as well as during operations, under Chairmanship of Additional Metropolitan Commissioner, MMRDA. The said Cell would comprises of internal cell with Joint project Director (Environment), MMRDA and the Chief Engineer, MMRDA and other members will be from Forest Department, Maharashtra Pollution Control Board, Environment Dept and other Environmental Specialists.
  - xv. MMRDA to set aside an amount of about 2% of the project cost towards mitigation measures; restoration & Conservation of mangroves/birds/flora/fauna and mudflats restoration.
  - xvi. MMRDA to undertake training programmes for construction personnel regularly so as to cause minimum disturbance to birds, due to construction activities.
  - xvii. MMRDA to develop a nature interpretation centre in the appropriate place to create awareness about importance of conservation of flora and fauna and migratory birds.
  - xviii. MMRDA to consult expert agency to minimize the damage to the mudflats before commencement of the construction work near the mudflats.
  - xix. MMRDA should obtain the Forest Clearance since, the proposed alignment of MTHL is passing through mangroves patches at Sewri and Nhava End of the project. Prior permission from the High Court of Mumbai should also be obtained as per the Hon. High Court order dated 27.1.2010 & 6.10.2005 in WP No. 3246/2004 & PIL 87/2006
  - xx. MMRDA to consult and implement suggestions given by committee constituted for fisheries issues in the project area. Representative of fisheries commissioner, local fisherman community etc should be appointed on the committee. The committee to ensure all mitigation measures for fisheries protection and issues of the local fisherman are considered and implemented during construction by conducting regular meeting during construction phase.
  - xxi. MMRDA to ensure that no fishing activity is hampered during construction and operation phase of the project. Mudflats and creek are of vital importance to fisheries. Therefore during construction and after completion of the project, MMRDA to assess the project affected fishermen and loss of business to fishermen that may occur due to the project.
  - xxii. MMRDA to formulate project specific disaster management plan and standard operating procedures before commencement of the project.
  - xxiii. MMRDA to constitute Environmental monitoring committee over and above to internal environmental cell as proposed. This committee will ensure third party monitoring of implementation of ecological compliances. The structure of the committee should comprise experts from National Institute of Oceanography; Representative of BNHS; renowned expert in Ornithology; Director, Fisheries Institute, Versova, Andheri; Head of Coastal Engineering, IIT, Mumbai and Representative of Environment Dept and Maharashtra Pollution Control Board. The officer of MMRDA will act as a Member Secretary to coordinate the quarterly meetings of the committee during construction phase.

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**General Conditions:**

- i. The MCZMA reserves the right to revoke this recommendation, if the conditions stipulated are not complied with to the satisfaction of the MCZMA or Environment Department.
  - ii. The MCZMA or any other competent authority, MCGM may stipulate any additional conditions subsequently, if deemed necessary, for environmental protection, which shall be complied with.
  - iii. A copy of the recommendation letter shall be marked to the concerned local body/ local NGO, if any, from whom any suggestion/ representation has been received while processing the proposal.
  - iv. The environmental safeguard measures should be implemented in letter and spirit.
  - v. This recommendation will be valid for 5 years from the date of issue of recommendation for commencement of construction & operation.
  - vi. The recommendation from CRZ point of view is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this recommendation does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.
10. The agenda item, minutes and the copy of this letter is also available on the website of MCZMA i.e. <http://mczma.maharashtra.gov.in>.

Member Secretary (MCZMA)

**Copy for information to:**

1. Additional Chief Secretary, Environment Dept, Room No. 217, Annex Building, Mantralaya, Mumbai.
2. Metropolitan Commissioner, MMRDA, Bandra Kurla Complex, Mumbai. District Collector, Raigad.
3. District Collector, Mumbai City, Old Custom House, Fort, Mumbai
4. District Collector, Raigad, Alibag, Dist. Raigad
5. Select File - TC 4

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For Member Secretary  
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*MBK*



**EXHIBIT-C**

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Exhibit C

(2)

Government of Maharashtra

By Speed Post

No.FLD-1313/C.R.206/F-10

Revenue and Forest Department,  
Room No.456/461 Annex, Hutatma  
Rajguru Chowk, Madam Cama Marg,  
Mantralaya, Mumbai-400 032.

Date: - 11/12/2015

To,

The Secretary to the Government of India,  
Ministry of Environment, Forests and Climate Change,  
Indira Paryavaran Bhavan, Jor Bagh Road, Aliganj,  
New Delhi.-110003

**Subject :- Forest Land-Raigad & Thane**

Diversion of 47.4170 ha. of forest land for six laning of Mumbai Trans Harbour Link Road in Raigad & Thane district of Maharashtra.

- Reference : 1) Government of Maharashtra even no. letter dated 24/11/2015  
2) Minutes of the Forest Advisory Committee (FAC) meeting held on 24/11/2015 at Paryavaran Bhavan, New Delhi  
3) Minutes of the State Board of Wildlife held on 4/12/2015.

Sir,

Government of Maharashtra vide above referred letter no-1, has submitted the BNHS report regarding proposal mention in the subject. The Forest Advisory Committee (FAC) in meeting held on 24/11/2015 at Paryavaran Bhavan, New Delhi, has considered the above report and referred back the proposal to the State Government to take the views of State Board of Wildlife which had initially engaged BNHS to conduct the study.

2. The State Board of Wildlife has considered the BNHS report in its meeting held on 4/12/2015. The minutes of the SBWL meeting are enclosed herewith. Considering the overall discussion regarding BNHS report the SBWL has taken following decisions -

- I) The original alignment as proposed by MMRDA is approved.
- II) All the Wildlife Mitigation Measures as proposed by BNHS in their report dated 23/ 09/2015 are approved for original alignment of MTHL with following modifications:-
  - i) Constructions of jetty on both the ends passing through mudflats and mangroves must not exceed 30 months and construction of the actual span must not exceed more than further 12 months.
  - ii) The distance between the supporting pillars shall remain 50 metre as currently proposed by MMRDA.
  - iii) MMRDA will partly bear the cost of setting of effluent treatment plant in the region as suggested by BNHS.

3. I am therefore directed to request you that Government of India may please be moved to issue approval under section-2 (ii) of Forest (Conservation) Act, 1980.

Encl : As above

Yours faithfully,

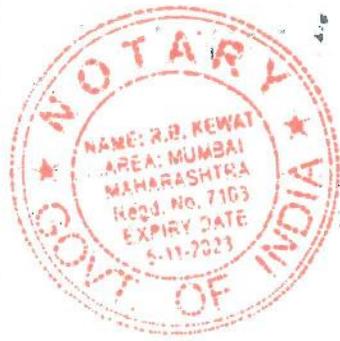
*(Virendra Tiwari)* 11/12/15  
Chief Conservator of Forests (Mantralaya)

Copy to:

- 1) Principal Chief Conservator of Forests (Wildlife), Maharashtra State, Nagpur

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Minutes of the 10<sup>th</sup> meeting of the State Board for Wild Life, Maharashtra  
dated 04<sup>th</sup> December 2015

Subject : 3.1. The report submitted by BNHS on the mitigation measures pertaining to MTHL

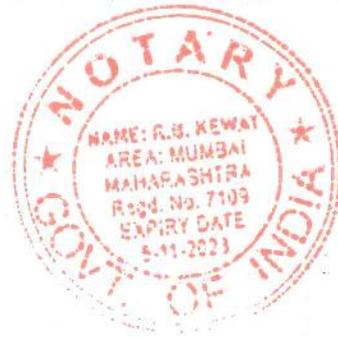
Item No.	Item	Information put forth before the Board	Discussion held & Decisions taken in the meeting
3.1	The report submitted by BNHS on the mitigation measures pertaining to MTHL	The SBWL had taken a decision in 9 <sup>th</sup> Meeting held on 22.6.2015 to approve the proposal and to get a study conducted on the mitigation measures / issues raised by BNHS representative and if required, with the help of experts. It was expected to suggest the mitigation measures. The study report is received from BNHS. The BNHS has taken view that alignment of the project must be changed and only then mitigation measures suggested in the report may be implemented. Hence, this report is put for discussion before the SBWL.	MMRDA, Mumbai stated that as proposed by BNHS change in the original alignment of MTHL is not possible due to technical and geographical reasons. They also suggested that it is not possible to increase the distance between two pillars because of technical and financial reasons. Moreover they also mentioned that the construction through mudflats and mangrove is not possible to complete within 15 to 18 months as suggested by BNHS. Construction of jetty will require minimum 24 to 30 months to complete and 12 more months for construction of the actual span. Dr. Jhala, Representative of WII, Dehradun had pointed out that after such construction is completed, birds return to their original habitat as experienced in such cases in the country like America. Hence, WII representative has expressed his view that change in original alignment is not needed. Taking in consideration the presentation and subsequent discussions, the following decisions are taken:- 1) The original alignment as proposed /by



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			<p>MMRDA is approved.</p> <p>ii) All the Wildlife Mitigation Measures as proposed by BNHS in their report dated 23/09/2015 are approved for original alignment of MTHL with following modifications:-</p> <p>i) Constructions of jetty on both the ends passing through mudflats and mangroves must not exceed 30 months and construction of the actual span must not exceed more than further 12 months.</p> <p>ii) The distance between the supporting pillars shall remain 50 metre as currently proposed by MMRDA.</p> <p>iii) MMRDA will partly bear the cost of setting of effluent treatment plant in the region as suggested by BNHS.</p>
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**EXHIBIT-D**

22/1/2016

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F. No. 8-89/2013-FC  
Government of India  
Ministry of Environment, Forest and Climate Change  
(FC Division)

Indira Paryavaran Bhawan,  
Aliganj, Jorbagh Road,  
New Delhi - 110003

Dated: 22<sup>nd</sup> January, 2016

To

The Principal Secretary (Forests),  
Department of Environment & Forests,  
Government of Maharashtra,  
Nagpur.

Sub: Diversion of 47.4170 ha of forest land in favour of the Executive Engineer (MTHL), MMRDA, Bandra Kurla Complex, Bandra (E), Mumbai for six laning of Mumbai Trans Harbour Link Road in Raigad & Thane district in the State of Maharashtra.-regarding.

Sir,

I am directed to refer to the Government of Maharashtra letter No. FLD-1313/CR-206/F-10 dated 30<sup>th</sup> September 2013 on the above mentioned subject seeking prior approval of Central Government in accordance with Section-2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the said Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of the Forest Advisory Committee, the Central Government hereby conveys the 'in-principle' approval for diversion of 47.4170 ha of forest land in favour of the Executive Engineer (MTHL), MMRDA, Bandra Kurla Complex, Bandra (E), Mumbai for six laning of Mumbai Trans Harbour Link Road in Raigad & Thane district in the State of Maharashtra, subject to fulfillment of the following conditions:-

- i. Legal status of the diverted forest land shall remain unchanged
- ii. Compensatory afforestation over the non-forest land equal in extent to the forest land being diverted shall be raised and maintained by the State Forest Department at the cost of the User Agency.
- iii. The land identified for the purpose of CA shall be clearly depicted on a Survey of India toposheet of 1:50,000 scale.
- iv. The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation, at the current wage rate, to the State Forest Department. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years.
- v. The State Government shall charge the Net Present Value (NPV) of the forest land being diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 05.02.2009 in this regard.

*SSP*

*YKS*

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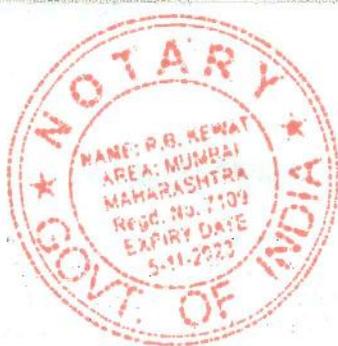


- vi. At the time of payment of the Net Present Value (NPV) at the then prevailing rate, the User Agency shall furnish an undertaking to pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India.
- vii. All the funds received from the User Agency under the project, shall be transferred to Ad-hoc CAMPA in the Saving Bank Account pertaining to the State concerned.
- viii. The user agency shall take prior permission from Hon'ble National Green Tribunal before issue of order for diversion of forest land in accordance with the Hon'ble Mumbai High Court, Nagpur Bench orders dated 27/4/2005 and 7/6/2006 in Writ Petition No. 1277/2000 as per which permission of Hon'ble High Court is necessary for taking up projects and activities in forest areas within 10 Km from protected areas. in accordance with Accordingly, this condition may be stipulated in the in-principle approval.
- ix. The state government/user agency shall take prior permission from Hon'ble High Court for Mangrove cutting before issue of order for diversion of the forest land in accordance with Hon'ble Mumbai High Court order dated 27/1/2010 in PIL 87 of 2006.
- x. The state government/MMRDA shall implement the mitigation measures recommended by the BNHS as modified by the State Board for Wild Life, at the project cost. The state government shall identify the recommendations which are to be implemented by the state forest department, if any, and cost of such activities shall be deposited with Ad-hoc CAMPA. For the activities to be taken up by MMRDA they shall submit an undertaking to the effect that the the activities will be taken up at the project cost.
- xi. Final notification for declaration of the area of 16.90 sq. km. in Thane creek of Thane district as sanctuary shall be issued before grant of Stage II approval. MMRDA shall contribute in establishment and management of the sanctuary, modalities for which shall be worked out by the state government.
- xii. Maharashtra Forest Department, through its Mangroves and Marine Biodiversity Conservation Foundation shall prepare a Mangroves and Marine Biodiversity Conservation Plan which shall be implemented at the project cost.
- xiii. Non-forest land to be transferred and mutated in favour of the State Forest Department for raising Compensatory Afforestation shall be notified as reserved Forest under Section-4 or Protected Forest under Section-29 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act.
- xiv. The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required.
- xv. No labour camp shall be established on the forest land.
- xvi. The User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas.
- xvii. The boundary of the diverted forest land, as applicable, shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, forward and back bearing and distance from pillar to pillar.
- xviii. The layout plan of the proposal shall not be changed without the prior approval of the Central Government.
- xix. The forest land shall not be used for any purpose other than that specified in the proposal.

Forest Dept

Forest Dept

F.D.



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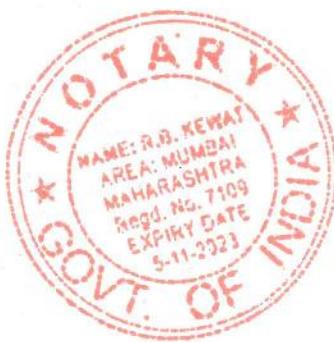
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- xx. The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government.
- xxi. No damage to the flora and fauna of the adjoining area shall be caused.
- xxii. The user agency in consultation with the State Government shall create and maintain alternate habitat/home for the avifauna, whose nesting trees are to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project.
- xxiii. Felling of trees on the forest land being diverted shall be reduced to the bare minimum and the trees should be felled under strict supervision of the State Forest Department.
- xxiv. The User Agency shall raise strip plantation on either sides of the road and central verge at the project cost, as per IRC specification, with maintenance of 7-10 years. The User Agency shall also submit design of providing at least 2-3 rows of long rotation indigenous trees, as per provision of IRC-SP-21-2009 (Guidelines on landscaping & tree plantation), on either sides of the road before final clearance.
- xxv. Wherever possible and technically feasible, the User Agency shall undertake afforestation measures along the roads within the area diverted under this approval, in consultation with the State Forest Department at the project cost.
- xxvi. The reclamation of quarry should be done under the supervision of the State Forest Department. The quarry shall be reclaimed and afforested completely before the project is closed.
- xxvii. Overburden shall not be dumped outside the width of the road. The muck generated in the earth cutting will be disposed off at the designate dumping sites and in no case the muck/debris shall be allowed to roll down the hill slopes.
- xxviii. The User Agency will provide retaining walls, breast wall and drainage as per requirement to make the slope stable.
- xxix. The User Agency will undertake comprehensive soil conservation measures at the project cost in consultation with the State Forest Department.
- xxx. The State Government shall complete settlement of rights, in terms of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in its letter No. 11-9/1998-FC (pt.) dated 03.08.2009 and 05th February, 2013, in support thereof;
- xxxi. The User Agency will assist the State Government in preservation of flora and fauna of the area in accordance with the plan prepared by the Chief Wildlife Warden of the State. Attention will be particularly given to providing safe crossing and corridors for wildlife species and protecting sensitive habitat like wetlands, grasslands and woodlands from degradation. Where canopy continuity is required for particular species, special measures shall be prescribed by the CWLW for providing crossing points. Where certain trees used for nesting/rookeries of species like birds of prey, herons, storks, hornbills, etc., are to be destroyed, alternative structure shall be provided and the trees transplanted.
- xxxii. The User Agency shall not collect any toll from the vehicles carrying forest officers on duty.
- xxxiii. The designing of culverts/bridges, if any, over the natural streams/rivers/canals should be done in such a manner that it does not hamper the natural course of water, does not give rise to water-logging, and also does not hamper movement of wild animals.

*[Signature]*

*[Signature]*

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- xxxiv. The User Agency shall submit the annual self compliance report in respect of the above conditions to the State Government and to the concerned Regional Office of the Ministry regularly.
- xxxv. Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time in the interest of conservation, protection and development of forests & wildlife.
- xxxvi. The User Agency and the State Government shall ensure compliance to provisions of the all Acts, Rules, Regulations and Guidelines, for the time being in force, as applicable to the project.

After receipt of the compliance report on fulfillment of the conditions mentioned above, the proposal shall be considered for final approval under Section-2 of the Forest (Conservation) Act, 1980. Till receipt of the said final/Stage-II approval of the Central Government from this Ministry, transfer of the said forest land to the User Agency shall not be affected by the State Government.

Yours faithfully,

*S.D.*  
(Sandeep Sharma)

Assistant Inspector General of Forests (FC)

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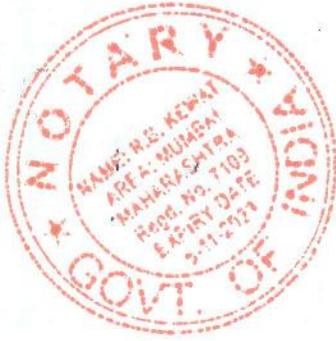
1. The PCCF, Government of Maharashtra, Nagpur.
2. The Nodal Officer, Office of the PCCF, Govt. of Maharashtra, Nagpur.
3. The Add. PCCF (Central) Regional Office, Nagpur.
4. User Agency
5. Guard file/Monitoring Cell.

*S.D.*  
(Sandeep Sharma)

Assistant Inspector General of Forests (FC)

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**EXHIBIT - E**

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Exhibit 'E'

(4)

F.No.11-85/2012-IA.III  
Government of India

Ministry of Environment, Forest and Climate Change  
(IA-III Section)

Indira Prayavaran Bhawan,  
Jor Bagh Road, New Delhi-3  
Dated: 25<sup>th</sup> January, 2016

To,

The Metropolitan Commissioner,  
Mumbai Metropolitan Region Development Authority (MMRDA),  
Bandra - Kurla Complex, Bandra (East),  
Mumbai - 51 (Maharashtra)

**Sub: Mumbai Trans Harbour Link by Mumbai Metropolitan Region Development Authority (MMRDA) - CRZ Clearance - reg.**

Sir,

This has reference to your proposal forwarded by the Member Secretary, Maharashtra Coastal Zone Management Authority (MCZMA) vide their letter No.CRZ 2015/CR 236/TC 4 dated 26<sup>th</sup> November, 2015 to this Ministry for grant of clearance in terms of the provisions of the Coastal Regulation Zone (CRZ) Notification, 2011 under the Environment (Protection) Act, 1986.

2. The Hon'ble National Green Tribunal (WZ) at Pune, vide their order dated 15<sup>th</sup> October, 2015 in Appeal No.4/2013 has set aside the CRZ Clearance dated 19<sup>th</sup> July, 2013 accorded to the above project by the Ministry with the direction to remit the matter to MoEFCC to consider it afresh. The Hon'ble Tribunal has ordered to examine the impacts of the project on mangroves eco-system, habitat of flamingos, mudflats besides other impacts. They have also directed to ascertain whether provisions of the Environment Impact Assessment (EIA) Notification, 2006 are applicable to the said project. Directions have been given to MoEFCC to take decisions independently on merit in eight weeks, and CRZ Clearance given to the project by MoEFCC has been kept in abeyance for six (6) months.

3. In compliance of the directions of the Hon'ble NGT, the proposal for 'Mumbai Trans Harbour Link (MTHL)' by Mumbai Metropolitan Region Development Authority (MMRDA) was considered by the Expert Appraisal Committee (EAC) in the Ministry for Infrastructure Development, Coastal Regulation Zone, Building/ Construction and Miscellaneous projects, in its meetings held on 22-23 December & 30<sup>th</sup> December, 2015.

4. The details of the project, as per the documents submitted by the project proponents (PP), and also as informed during the above said EAC meetings, are reported to be as under:-

(i) The project was first accorded Environmental Clearance under the CRZ Notification, 1991 and the EIA Notification, 1994, vide letter dated 11<sup>th</sup> March, 2005. However, the project could not take off within the validity period of 5 years of the EC due to irrational offers received from bidders. Subsequently, the CRZ Clearance dated 19<sup>th</sup> July, 2013 was issued under CRZ Notification, 2011, based on the recommendations of MCZMA vide their letter dated 15<sup>th</sup> June, 2012, and taking into consideration the submissions of the project proponent that the proposal is to construct sea link and it does not attract the provisions of EIA Notification, 2006.

(ii) The present project 'Mumbai Trans Harbour Link' (MTHL) envisages construction of 6 lanes road bridge across the Mumbai Harbour, which aims at facilitating decongestion of

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Mumbai by improving connectivity between the Island City & main land (Navi Mumbai). The project involves construction of a bridge across the Mumbai harbour between Sewri on the island city side (in the Mumbai Port Trust area) and Chirle on the Navi Mumbai side. The link is about 22 km long with a 16.5 km bridge across the sea and a 5.5 km long viaduct on the land. The exit and entry into the sea and freeway would be through interchanges at the end points and at the intermediate points on the Navi Mumbai side.

(iii) As per the Coastal Zone Management Plans (CZMP) of Mumbai and Navi Mumbai, the proposed alignment of 22 km MTHL project passes through CRZ-I, CRZ-II, CRZ-IV. The Sewri end of 1.5 km alignment (chainage 1.0 to 2.5 km) passes through mud flats, sparse mangroves and abuts the flamingos breeding site. The Nhave end of the 0.6 km alignment (chainage 16.98 to 17.5 km) also passes through mudflats and sparse mangroves.

(iv) The Maharashtra Coastal Zone Management Authority (MCZMA) has recommended the project vide their letter No. CRZ 2015/CR 236/TC 4 dated 26<sup>th</sup> November, 2015.

(v) The total cost of the project is Rs. 11,370 crore.

(vi) As per the report, 14.48 km (66%) alignment falls in creek water, 2.1 km (12%) passes through mudflats and 4.92 km (22%) alignment is on land. CRZ-I areas particularly Sewri mudflat and Shivaji Nagar mudflat are ecological important. The mangroves area affected at Sewri end is 576 sqm and is 9306 sqm at Chirle side of the proposed Sea link.

(vii) For navigational spans, a minimum vertical clearance of 2.5 m below the bridge above the highest HTL, whereas it is 9.1 m elsewhere is envisaged.

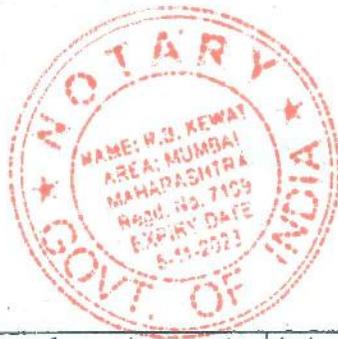
(viii) Rapid EIA studies were carried out for preparation of EIA/EMP reports wherein, mitigation measures were proposed to ameliorate the impacts due to the proposed construction/operation of the project, especially addressing the issues of mudflats/migratory birds.

(ix) Since the entire sea link is proposed on viaduct, area occupied by piers only will be affected. Compensatory mangrove plantation in area of 30 ha in Nhave side is proposed for loss of 0.1776 ha of mudflats/mangroves due to piers.

(x) The BNHS, an expert institution, has been engaged for addressing various aspects of environmental management, especially related to migratory birds and other issues.

(xi) The project proponent presented the EMP with the details as under:-

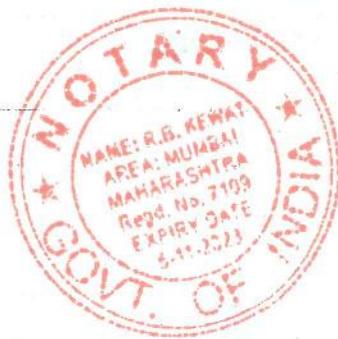
S.No.	Environmental attribute	Remark	Cost (In Rs.)
1.	Environmental Monitoring- Air Act, Water Act, Noise levels	Air Noise Water-Marine and Land Solid waste Ecology and Eco-system Fishing etc- Quarterly during CP	8 crore
2.	Compensatory Mangrove Restoration Plan	With the help of Forest department	25 crore
3.	Implementation of the suggestions given by BHNS	In accordance with their report	25 crore
4.	Noise barriers	Along 4.5 x 2 = 9 km stretch abutting mudflats where flamingos gather	45 crore



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5.	Mitigation of marine water pollution caused due to the surrounding Industries and Sewage from Urban Bodies, by providing Funding and Capacity Building for Enabling Effluent Treatment	Identifying sources, treatability report, implementation of restoration and ETP	40 crore
6.	Contribution to Mangroves Fund, an initiative by Govt. of Maharashtra for Conservation and Protection of Mangroves in Coastal areas by depositing Seed Money. This can be used for Survey & Demarcation of Notified areas; Purchase of vehicles and equipments for anti Encroachment drives, etc.	In accordance with their report this money will be deposited with GoM for restoration, conservation and Protection of mangroves in coastal areas	25 crore
7.	Oil Spill Mitigation Plan	State of the air Oil Spillage mitigation equipment, etc	10 crore
8.	<ul style="list-style-type: none"> <li>• Habitat quality assessment and monitoring</li> <li>• Surveillance management and monitoring team for migratory birds, marine flora, turbidity in sea floor, etc</li> <li>• Corpus fund for mudflat restoration program</li> </ul>	Carrying out detailed habitat quality monitoring of mudflats, migratory birds, marine flora and fauna and surveillance study	20 crore
9.	Appointment of Bird Monitor and his assistant till Restoration of Baseline data	Monthly monitoring during CP and Seasonal monitoring during OP	4 crore
10.	DMP, Fire fighting, Risk Analysis	Necessary equipment, Quick Response Vehicles etc for implementation of the detailed DMP	15 crore
11.	Sustainable development including establishing Nature Interpretation Centre	Establishing a centre for training and workshops at schools and college level	10 crore
12.	Safety and Security	It includes setting up safety measures and security measures including telecommunication systems, safety boats, wireless communications etc for emergency	15 crore
13.	Energy conservation	To use LED, Solar lamps on the bridge, ROW's etc	10 crore
14.	Landscaping-Plantation of trees, flowering plants etc.	Along the entire bridge alignment	8 crore
15.	Compensation and Capacity Building of Fisher folks due to Temporary and Permanent Loss of Fishing ground	Compensating affected fisher folk community welfare, etc	75 crore



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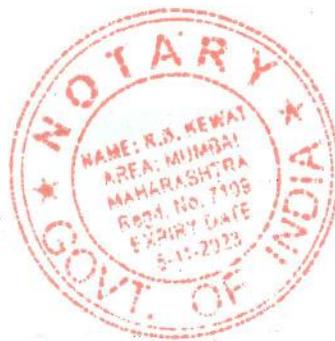
5. The EAC, after deliberation on the proposal in its 155<sup>th</sup> meeting held on 30 December, 2015, recommended the project for grant of CRZ Clearance. As per recommendations of the EAC, the Ministry of Environment, Forest and Climate Change hereby accords CRZ Clearance to the above project 'Mumbai Trans Harbour Link (MTHL)' by Mumbai Metropolitan Region Development Authority (MMRDA), under the provisions of the CRZ Notification, 2011 and amendments thereto, and circulars issued thereon, and subject to the compliance of the specific and general conditions as below:-

**A. SPECIFIC CONDITIONS:**

- (i) All the terms and conditions stipulated by the MCZMA in their letter No. CRZ 2015/CR 236/TC 4 dated 26<sup>th</sup> November, 2015, shall be strictly complied with.
- (ii) All the terms and conditions as mentioned in the earlier CRZ Clearance dated 19<sup>th</sup> July, 2013, shall also be complied with in letter and spirit.
- (iii) The Environment Management Plan as presented during the meeting shall be implemented in consultation with all the stakeholders.
- (iv) The project/activity shall be carried out strictly be in accordance with the provisions of CRZ Notification, 2011, and shall not affect the coastal ecology of the area including flora and fauna.
- (v) The project proponent shall obtain all permissions from concerned authorities prior to commencement of the project, and shall observe all safety requirements onshore and offshore.
- (vi) The project proponent shall not undertake any blasting/construction activities during night hours.
- (vii) The proposal indicates the diversion of 47.417 ha forest land for which the proponent shall obtain the requisite Forest Clearance. The project may be executed in the entire stretch in non-forest land, and while making application to get the Forest Clearance, the execution of work on non-forest land shall not be cited as a reason for grant of FC and in case FC is declined, the forest land shall be maintained at its existing condition. The PP shall submit an undertaking to this effect at the earliest to the concerned Regional Office to this Ministry.
- (viii) All the wildlife mitigation measures as proposed by BNHS in their report dated 23.09.2015 for original alignment shall be implemented with the following modification:-
  - (a) construction of jetty on both the ends passing through mud flats and mangroves must not exceed 30 months and construction of actual spans must not exceed more that further 12 months.
  - (b) the distance between the supporting pillars shall remain 50 m as currently proposed by the MMRDA.
  - (c) MMRDA will partly bear the cost of setting of effluent treatment plant in the region as suggested by BNHS.
- (ix) The project proponent shall not undertake any blasting/construction activities during night hours.

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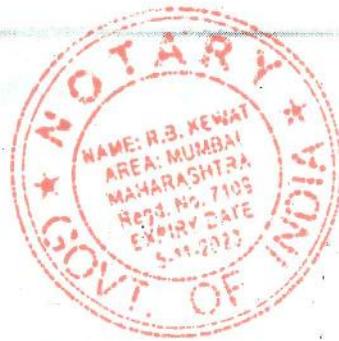


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**B. GENERAL CONDITIONS:**

- (i) Adequate provision for infrastructure facilities including water supply, fuel and sanitation must be ensured for construction workers during the construction phase of the project to avoid any damage to the environment.
  - (ii) Full support shall be extended to the officers of this Ministry/Regional Office at Nagpur by the project proponent during inspection of the project for monitoring purposes by furnishing full details and action plan including action taken reports in respect of mitigation measures and other environmental protection activities.
  - (iii) A six-Monthly monitoring report shall need to be submitted by the project proponents to the Regional Office of this Ministry at Nagpur regarding the implementation of the stipulated conditions.
  - (iv) MoEFCC or any other competent authority may stipulate any additional conditions or modify the existing ones, if necessary in the interest of environment and the same shall be complied with.
  - (v) The Ministry reserves the right to revoke this clearance if any of the conditions stipulated are not complied with to the satisfaction of the Ministry.
  - (vi) In the event of a change in project profile or change in the implementation agency, a fresh reference shall be made to the MoEFCC.
  - (vii) The project proponents shall inform to the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities and the date of start of land development work.
  - (viii) A copy of the clearance letter shall be marked to concerned Panchayat/ local NGO, if any, from whom any suggestion/ representation has been made received while processing the proposal.
  - (ix) A copy of the CRZ Clearance letter shall also be displayed on the website of the concerned State Pollution Control Board. The Clearance letter shall also be displayed at the Regional Office, District Industries centre and Collector's Office/Tehsildar's Office for 30 days.
6. The above stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act 1974, the Air (Prevention and Control of Pollution) Act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification 1994, including the amendments and rules made thereafter.
7. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, and clearances under the Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the respective competent authorities.
8. The project proponent shall advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded CRZ Clearance and copies of clearance letters are available with the State Pollution Control Board and may also be seen on the website of the Ministry of Environment, Forest & Climate Change at <http://www.envfor.nic.in>. The advertisement should be made within Seven

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days from the date of receipt of the Clearance letter and a copy of the same should be forwarded to the Regional office of this Ministry at Nagpur.

9. This Clearance is subject to final order of the Hon'ble Supreme Court of India in the matter of Goa Foundation Vs Union of India in Writ Petition (Civil) No.460 of 2004 as may be applicable to this project.

10. Any appeal against this clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

11. Status of compliance to the various stipulated environmental conditions and environmental safeguards will be uploaded by the project proponent on its website.

12. A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zilla Parishad/Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the company by the proponent.

13. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.

14. The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEFCC, the respective Zonal Office of CPCB and the SPCB.

15. The environmental statement for each financial year ending 31<sup>st</sup> March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEFCC by e-mail.

*S.K.*  
25/11/2016  
(S.K. Srivastava)  
Scientist E

Copy to:-

- 1) The Secretary, Department of Environment, Govt. of Maharashtra, Mantralaya, Mumbai - 32
- 2) The Chairman, CPCB, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 32
- 3) The Chairman, Maharashtra Coastal Zone Management Authority, Room No.217 (Annexe), Mantralaya, Mumbai - 32
- 4) The Member Secretary, Maharashtra Pollution Control Board, Sion (E), Mumbai
- 5) The APCCF (C), Ministry of Environment, Forests and Climate Change, Regional Office (WCZ), Ground Floor, East Wing, New Secretariat Building, Civil Lines, Nagpur - 1
- 6) Guard File/Monitoring Cell

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*S.K.*  
25/11/2016  
(S.K. Srivastava)  
Scientist E



**EXHIBIT-F**

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No.11-65/2012-IA.III  
 Ministry of Environment, Forest & Climate Change  
 Government of India  
 IA-III Division

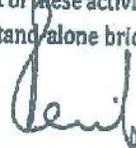
Indira Paryavaran Bhawan  
 Jor Bagh  
 New Delhi.

March 21, 2016

**OFFICE MEMORANDUM**

Mumbai Trans-Harbour Link (MTHL) project was accorded clearance under CRZ Notification, 2011 vide order of even number dated 25.1.2016. The project proponent; i.e., Mumbai Metropolitan Region Development Authority (MMRDA) vide their letter number ED/MTHL/CRZ clearance/16/2 dated 9.3.2016 has sought clarification as to whether the said project requires environmental clearance (EC) under EIA Notification, 2006.

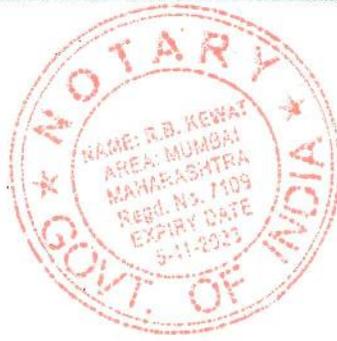
The subject matter has been examined with specific reference to the orders of National Green Tribunal (Western Zone) Bench in Pune dated 15.10.2015 in Appeal No. 4/2013. MTHL project envisages the construction of bridges. The bridges fall in the category of 'infrastructure projects'. The EIA Notification, 2006 in category 7 describes the infrastructure entities requiring prior EC under the heading "Physical Infrastructure including Environmental Services" where stand-alone bridges do not find a mention. Item No. 8 of the Schedule to EIA Notification, 2006 is specifically for building, construction, township and area development projects, and bridges do not form part of these activities. Accordingly, it is clarified that there is no necessity for prior EC for stand alone bridges under EIA Notification, 2006.

  
 (Bishwanath Sinha)  
 Joint Secretary  
 Tel: 24695274

Additional Metropolitan Commissioner-II  
 MMRDA  
 Bandra-Kurla Complex  
 Mumbai 400051

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**EXHIBIT-G**

EXHIBIT - G

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 417 OF 2006

IN

PUBLIC INTEREST LITIGATION NO. 87 OF 2006

WITH

NOTICE OF MOTION NOS. 502, 555 & 549 OF 2009

WITH

CHAMBER SUMMONS NO. 172, 196 OF 2007

And

CHAMBER SUMMONS NOS. 10, 11, 260 OF 2009

And

CHAMBER SUMMONS NOS. 175, 192 OF 2009

Bombay Environmental Action Group & anr. ....Petitioner

versus

The State of Maharashtra & others.....Respondents.

And

Dhanraj CHS Ltd.

....Applicant.

Mr. N.H. Seervai a/w. Sharan Jagtiani i/b. M.V. Jayakar & Co.  
adv. for the Petitioner.

Mr. R.N. Kadam A.G. With N.P. Pandit AGP for the Respondent-  
State.

Mr. R.N. Narula a/w. A. Dasgupta i/b. M/s. Niryoah & Asso. For  
applicant in Notice of Motion.

Mr. Janak Dwarkadas a/w. C.S. Balsare, Vipul Bilve & Udit Mehta  
i/b. Mulla & Mulla for applicant in N.M. 502, 555/09

Mr. K.K. Singhvi a/w Mrs. Geeta Joglekar for BMC.

Mr. Rui Rodrigues a/w N.R. Prajapati for Union of India.

Mr. R.R. Naik for respondents 15 and 19.

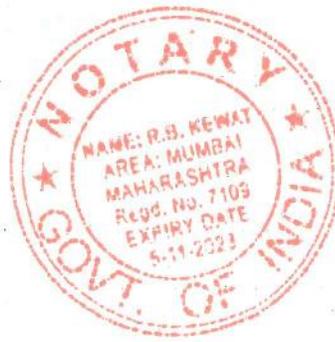
Mr. N.R. Bubna for applicant in N.M. 549/09.

Ms. Jai Kanade i/b G.S. Godbole for applicant in C.S. No. 172,  
196/07 & 10,11,260/08.

Ms. Jai Kanade i/b. Nitin Mulye for applicant in C.S. 175, 192/09.

Mr. A.A. Garge for Navi Mumbai Mun. Corpn.

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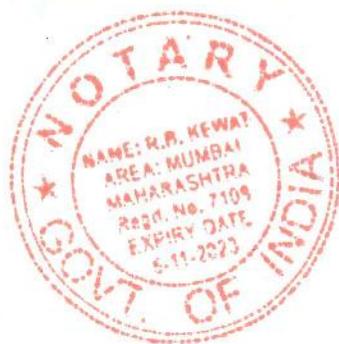
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CORAM: J.N. PATEL Acting C.J.  
AND  
B. R. GAVAI, J.  
DATED : 27th January, 2010.

P.C.:

1. Heard the learned advocates appearing for the parties.
2. The learned counsel appearing for the petitioner has drawn our attention to the order passed by this court on 6-10-2005 and submitted that the respondents particularly the authorities i.e. the State of Maharashtra and others have till date failed to comply with the order, on its various aspects and particularly it has failed to comply with the directions issued by this court in para 8 of the order and inspite of the court directing the State to declare all these areas which are found to be covered by Mangroves in the entire State of Maharashtra as forests.
3. The learned Advocate General has informed the court that the process is going on in so far as the other parts of the State is concerned and that unless proper procedure is followed the lands cannot be notified as forests and the State has taken steps to get the revenue record updated so as to implement the order passed by this court. The Advocate General has also submitted that so far as the forests on private land which has come under order passed by this court cannot be implemented unless proper procedure as incorporated in the Maharashtra Private Forests (Acquisition) Act, 1975 is followed by the State and the affected

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persons are given an opportunity of being heard.

4. Mr. K.K. Singhvi the learned Senior counsel appearing for the Corporation submits that some of the important projects of the Corporation in respect of the development aspect is concerned, are held up for want of permission from the respondent State for the reason that the application for seeking permission for implementation of the project is not being considered on the ground that the order dated 6<sup>th</sup> October 2005 prohibits consideration of such application for granting permission.

5. The learned counsel for Tata Power submitted that atleast the court may direct the authorities to consider the application in accordance with law as it is affecting a very important project of power generation and supply, which is urgently required for erection of thermal power station and transmission line for supply of power to north and south Mumbai. Advocate Ms. Jai Kanade further submitted that at least the authorities may be directed to consider their application for grant of permission for their project.

6. We find much substance in the submission made by the learned counsel appearing for the petitioner, in so far as it pertains to effective and meaningful implementation of the order dated 6<sup>th</sup> October 2005. The State may take its own time for implementing the order dated 6<sup>th</sup> October 2005 but this court was very much concerned and was required to pass this order to prevent further destruction of mangroves and to ensure the conservation and rejuvenation of mangroves in the State of Maharashtra. It further

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directed that the Maharashtra State using Satellite Remote Sensing is directed to prepare phase-II of the mapping for carrying out mangroves study using high resolution satellite data of 65 cms. spatial resolutions/one meter spatial resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas. After receiving the said date transfer of mangrove details on city survey/village maps (cadastral map) would be done. Thereafter this court directed and the learned Advocate General gave assurance that the said exercise is likely to take about six months. By mentioning that it has become imperative to pass interim order to protect the mangroves during the interregnum. It further clarified that this order shall not apply to all those cases which are specifically governed by injunction or stay order passed by the courts.

7. We are therefore making it clear that as the State has not been able to notify the areas which are covered by mangroves which has been identified and whether it falls under the public or private domain no non forests activity should be permitted by the respondent State in these mangroves area through out the State of Maharashtra which shall be subject to section 2 of the Forests (Conservation) Act 1980 and Environment Protection Act and Rules, without taking permission from the competent authority.

8. So far as the grievance of the applicants, as regards permission which is sought to be granted by the authorities is concerned, we make it clear that nothing prevents the statutory or local and private bodies and their contractors to approach the

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competent authorities to seek permission for their respective projects as required in accordance with the law for the projects which are likely to affect mangroves area in the State of Maharashtra as specified in mapping of mangroves whereby mangrove areas stand delineated and the authorities on such an application being filed, would consider it strictly in accordance with law in the light of the interim orders passed by this court from time to time and keeping in mind principle of sustainable development. If such permission is granted by the competent authority the same shall be subject to approval of this court and the parties should obtain leave of the court before implementing the project in mangroves area. This will enable the court to monitor whether the principle of sustainable development is being scrupulously followed or not for the preservation, protection of mangroves area which is ecologically fragile area.

Stand over to 17-2-2010.

( Acting C.J.)

(B.R. Gavai, J.)

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L)NO.49 OF 2016  
IN  
PUBLIC INTEREST LITIGATION NO.87 OF 2006**

Navi Mumbai Municipal Corporation

...Applicant

IN THE MATTER BETWEEN

The Bombay Environmental Action Group and Anr.

...Petitioners

Vs

The State of Maharashtra and Ors.

... Respondents

Mr.Rohit P. Sakhadeo, for the Applicant in NMWL No.49 of 2016.

Ms.Shreya Parikh v/b M/s.M.V.Jayakar and Co., for the Petitioners.

Mr.Rui Rodrigues a/w Mr.Upendra Lokegaonkar for the UOI.

Ms.P.H.Kancharia, Government Pleader for the Respondent - State.

**CORAM : V.M.KANADE &  
REVATI MOHITE DERE, JJ.**

**DATE : 4<sup>th</sup> FEBRUARY, 2016**

PC.:

1. Heard learned counsel appearing on behalf of the

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applicant and the learned counsel appearing on behalf of the petitioners.

2. A Notice of Motion is filed seeking permission of this Court to implement the project of laying down sewerage pipe line in Navi Mumbai.

3. This Court vide order dated 27<sup>th</sup> January, 2010 had directed all statutory or local and private bodies to seek permission of this Court for their respective projects which are likely to affect the mangroves area in the State of Maharashtra. In view of the order passed by us, the applicant who is the Navi Mumbai Municipal Corporation has filed this motion. The applicant intends to lay down main underground sewerage line, of about 1400 mm diameter from Junagar to Sanpada STP (Sewerage Treatment Plant). It is stated in the affidavit in support that the other sewerage lines connecting other areas to the Sanpada STP are already laid down. However, only a portion of about 110 meters is not completed since permission from this Court was not obtained. It is stated in the affidavit in support that



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the applicant had already obtained permission from the Maharashtra Coastal Zone Management Authority ("MCZMA"). It is submitted that all the conditions mentioned in the said permission are being complied with by the applicant. It is submitted by the learned counsel appearing on behalf of the applicant that if the mangroves are removed from these areas they are willing to replant the mangroves as directed by this Court. It is submitted that for the purpose of laying down this sewerage line, it will be necessary to construct a concrete slab and therefore it may take about two-months time for the purpose of laying down under ground pipe line. It is further submitted that before laying down the proposed pipe line, the mangroves occupying the said water channel will have to be temporarily removed and temporary bunds be erected on both the sides as the work progresses and thereafter the proposed pipe line will be laid through the channel. After the work of construction of concrete slab and pipe line is over the temporary bunds will be demolished and the water flow will be restored through the channel. It is submitted that in all probabilities the mangroves will survive and if for some reasons they do not survive the applicant undertakes to replant five times the number of



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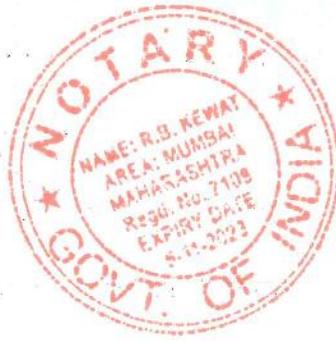
mangroves which are destructed at some other suitable area within the area of operation of the applicant.

4. Learned Counsel appearing on behalf of the petitioners submitted that they have an apprehension regarding the procedure which is followed for laying down of the pipe line. It is submitted that if the bunds are blocking the water flow, this will result in destruction of the mangroves not only in the area where the pipe lines are being installed but also in the adjoining areas as a result of stoppage of the water flow to the other mangroves. It is also submitted that proper representation was not made to the MCZMA before obtaining permission.

5. On the other hand, learned counsel appearing on behalf of the applicant submitted that the applicant does not propose to put up a bund in the entire area. However they proposed to do it in a phase manner so that the water flow in the entire area is not stopped.

6. After having heard both the sides, we are satisfied that the project is of great importance even from the environmental point of view

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
NOTICE OF MOTION (LODGING) NO. 869 OF 2015  
IN  
PUBLIC INTEREST LITIGATION NO. 87 OF 2006**

Brihanmumbai Mahanagarpalika.

...Applicant  
Respondent No. 4

**IN THE MATTER OF :**

The Bombay Environment Action  
Group & Anr.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. S. U. Kamdar, Sr. Counsel with Ms. Trupti Puranik for  
Applicant/Respondent No.4-BMC

Mr. Jai Chhabria D/o Jaykar & Partners for the Petitioner

Mr. Rui Rodrigues with Mr. N. R. Prajapati for the Respondent-UOI

**CORAM : V. M. KANADE &  
REVATI MOHITE DERE, JJ.  
TUESDAY, 12TH JANUARY, 2016**

**P.C. :**

1. Brihanmumbai Mahanagarpalika was the original respondent No. 4 in the petition. The applicant is seeking following reliefs in the Motion:



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"a) That the Hon'ble Court be pleased to permit these respondents for diversion of mangroves from Gazdar Bandh Storm Water Pumping Site, near Khardanda, Khar (W), Mumbai pursuant to the orders passed by this Hon'ble Court dated -----

b) Such other reliefs as the Hon'ble Court may deem fit."

2. The Corporation proposes to construct a Storm Water Pumping Station on SNTD Nalla and the said project has been undertaken as per BRIMSTOWAD report. It is their contention that as a result of the said project, areas like Daulat Nagar, Shastri Nagar, Post and Telegram Office, Linking Road, Navli Agripada School and part of Milan Subway will be relieved from flooding situation on commissioning of the said pumping station. It is submitted that the work of construction of the said project commenced on 1<sup>st</sup> October, 2014 and the Corporation deadline for completing the work is end of November 2016. It is submitted that total number of 156 mangrove plants from 8 locations as shown in the plan will have to be removed and replanted elsewhere. The applicants approached the Chief Conservative of Forest (Mangrove Division) seeking their permission for shifting these mangroves. They were informed that Corporation should take permission from the Government of India under

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Section 2 of the Forest Conservation Act, 1980 and Environment Act, 1986 from the Environment Corporator and they should also seek permission from the State. In view of the said letter dated 7<sup>th</sup> October, 2015, the applicants have filed this application seeking leave of this Court.

3. In Public Interest Litigation No. 87 of 2006, by order dated 6<sup>th</sup> October, 2005, a general order of prohibition was granted by this Court for removal of mangroves. That order was partly modified by order dated 27<sup>th</sup> January, 2010 passed by the Division Bench of this Court. A large number of applications were filed from Corporation, Government and other Government Corporations and it was brought to the notice of this Court that large number of public utility projects are stalled on account of the said order, dated 6<sup>th</sup> October, 2005 which granted a complete ban on the consideration of such applications for granting permissions. In view of this, the Court observed in para 8 as under :

"8. So far as the grievance of the applicants, as regards permission which is sought to be granted by the authorities is concerned, we make it clear that nothing prevents the statutory or local and private bodies and their contractors to approach the competent authorities to seek permission for their respective projects as required in accordance with the law for the projects which are likely to affect mangroves area in the State of Maharashtra as



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*specified in mapping of mangroves whereby mangrove areas stand delineated and the authorities on such an application being filed, would consider it strictly in accordance with law in the light of the interim orders passed by this court from time to time and keeping in mind principle of sustainable development. If such permission is granted by the competent authority the same shall be subject to approval of this court and the parties should obtain leave of the court before implementing the project in mangroves area. This will enable the court to monitor whether the principle of sustainable development is being scrupulously followed or not for the preservation, protection of mangroves area which is ecologically fragile area."*

4. Learned Counsel appearing on behalf of the petitioners submitted that the Corporation has to first seek permission for their projects from the concerned Authorities and thereafter approach this Court. Mr. Kamdar, learned Senior Counsel appearing on behalf of the Corporation submitted that the experience of the Corporation is that whenever applications are filed before these Forest Department (Mangrove Division) and other Environmental Authorities, instead of complying with the directions given by this Court in para 8 and processing their application in accordance with law and granting or rejecting permission, these Authorities again insist that leave should be obtained from this Court. It is submitted that therefore the Corporation is constrained to approach this



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Court. It is submitted that the Corporation shall first obtain the requisite permission from the concerned authorities namely Forest Department (Mangrove Division) or Environment Department and only thereafter, proceed with the removal of mangroves and start the process of relocating them.

5. We appreciate the concern expressed by the petitioners/NGO and we must also appreciate the good work done by them in the other petitions which have been filed by them from time to time in this Court and the Apex Court. We must also note that they have not taken any adversarial stand in these applications which are filed by the Corporation. Their only concern is that before starting the work, permissions from the Competent Authority should be taken in accordance with law. It is, therefore, submitted that in view of the observation made in para 8, the Corporation should first obtain permission from the Forest Department (Mangrove Division) and thereafter, they should obtain leave of this Court.

6. In our view, though it is true that in para 8, it is observed that the Competent Authorities should seek permission for their respective



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projects and after permission is granted, they should obtain leave of the Court, we are of the view that the said observation cannot be construed to literally mean that unless application is filed and permission is obtained before the respective Authorities, no application can be filed in this Court. We are, therefore, of the view that merely because permission is not granted by the concerned Authority, the present application cannot be treated as not maintainable. It has to be remembered that these public utility projects are ultimately undertaken in the interest of the public at large and they can never be equated with the building projects undertaken by builders and estate agents. At the same time, it cannot be forgotten that the direction which have been given by this Court are also in public interest and the Corporation and State Authorities, therefore, are not absolved from the responsibility of obtaining permissions from Competent Authorities as directed by the Court in the earlier orders passed in the PIL. It must be remembered that the entire object and purpose is to ensure that there is sustainable development and therefore, the said orders cannot be construed to mean that the work of the development is stopped for eternity and at the same time, the said orders also cannot be construed to mean that Corporation, State Authorities and the Government undertakings can flout



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the directions given by this Court with impunity and destroy the mangroves and forest on the ground of development of the public utility project. A balance therefore has to be struck between the two interests namely one of development of public utility projects and at the same time maintaining a proper balance between environmental protection and development. Sustainable development, therefore, means that such development which protects the interest of the posterity also has to be kept in mind and all the natural resources cannot be exhausted by this generation. The concept of trust, therefore, evolved over a period of time, cannot be lost sight of.

7. So far as the present project is concerned, this project has been undertaken on account of the BRIMSTOWRD report. Sometime on 25<sup>th</sup> July, 2005, the City witnessed torrential rains which brought the entire city to a standstill. An investigation was made and it was noticed that since the accumulated rain water could not reach the high seas on account of blockage of sewerage, rain water accumulated in the city, which resulted in flooding of various parts of the city. A report was submitted and suggestion was made that if such type of projects like the one which is undertaken by the Corporation, is completed expeditiously, then the said rain water can be



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diverted to the seas through this project.

8. Mr. Kamdar, learned Counsel appearing on behalf of the Corporation has invited our attention to a map. It is submitted that the work has already commenced but they have not removed the mangroves since leave has to be obtained from this Court and also from the Competent Authorities. Total number of 156 mangroves which are situated in areas which are shown in the map, have to be relocated. The Corporation proposes to relocate it above the creek. They have already applied to the Forest Department seeking permission to relocate these mangroves. The Corporation undertakes not to remove or relocate these mangroves as long as the permission is not granted by the Forest Department (Mangrove Division) and the concerned Environmental Department, as the case may be, as required in accordance with law.

9. In view of this statement, we grant leave to the Corporation, subject to the statement made by them. It is clarified that only after the requisite permission is granted from the Competent Authorities in accordance with law, the Corporation would then relocate the mangroves.



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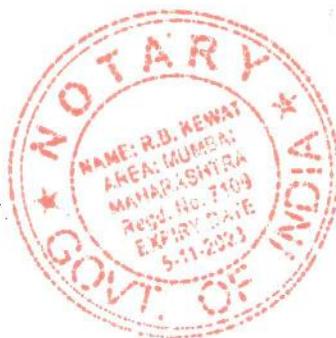
10. The Competent Authorities shall consider the application of the Corporation in accordance with law, expeditiously within eight weeks. If such permission is granted then it is not necessary to approach this Court again.

11. Needless to state that parties have liberty to approach this Court in the event, it is found that the work of relocating mangroves is being undertaken without obtaining the requisite permission.

12. The Notice of Motion is allowed in the aforesaid terms and is disposed of.

REVATI MOHITE DERE, J.

V. M. KANADE, J.



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86

NMWL. 712-15

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) No. 712 OF 2015  
IN  
PUBLIC INTEREST LITIGATION No. 87 OF 2006

The Bombay Environment Action  
Group and Anr.

Petitioners

Vs.

The State of Maharashtra & Ors.

Respondents

AND

City and Industrial Development  
Corporation of Maharashtra Ltd.

... Applicants  
(in NMWL. 712/2015)

\*\*\*\*

Ms. Shreya Parikh i/o M. V. Jaykar & Co., for the Petitioners.

Mr. N. P. Pandit, AGP for the Respondent No. 1 – State.

Mr. N. R. Prajapati a/w Rui Rodrigues, for Respondent – UOI.

Ms. Sharmila Deshmukh, for Respondent No. 3.

Mr. G. S. Hegde, for Applicant in NMWL No. 712/2015.

\*\*\*

CORAM : V. M. KANADE, &  
REVATI MOHITE-DERE, JJ.

DATE : DECEMBER 21, 2015

PC.

1. The Applicants – CIDCO have taken out this motion  
seeking following reliefs:

YMS



NMWL. 712-15

- (a) That the order dated 6.10.2005 passed in the above petition be modified and the applicants be permitted to construct the coastal road from Junction of NH-4B near Navghar, along Karanja creek to change, in Dronagiri Node area, Navi Mumbai.
- (b) that such other and further reliefs as this Hon'ble Court may deem fit and proper as the nature and circumstances of the present case may require.

2. It is an admitted position that in PIL No. 87 of 2006 this Court by order dated 6.10.2005 was pleased to give a general direction that in the event any fresh construction is being made by the authority or the government undertaking, they should obtain leave of this Court.

3. Pursuant to the said direction given by this Court dated 6.10.2015, the Applicant CIDCO has filed this motion. It is contention of the Applicants that they need fresh permission to construct three bridges and for that purpose they are required to remove the mangroves, which have grown on the said land due to non construction of the bridges. It is submitted that initially new road was built; permission was obtained by the CIDCO from the relevant authorities, including MCZMA. However, since the construction of

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NMWL. 712-15

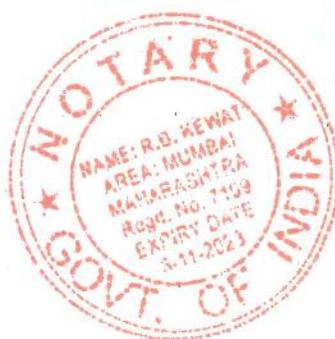
these bridges could not take place in time, they had applied for re-validation. Accordingly, re-validation was granted by all the concerned authorities. It is submitted that on account of lapse of time, mangroves came up through view on the said land where the bridges were to be constructed. It is submitted that therefore, applicants have filed this motion seeking to remove those mangroves.

4. Learned counsel Mrs. Sharmila Deshmukh, appearing on behalf of the MCZM has submitted that re-validation has been granted. The other concerned authorities have also granted their NOC.

5. Mr. G. S. Hegade, learned counsel appearing on behalf of the Applicants submitted that the question of again obtaining NOC from the various department did not arise since at the relevant time when permission was granted in 2007, at that time there were no mangroves and during the intervening period these mangroves have grown up. It is submitted that the connecting roads have been constructed after obtaining all relevant permissions and after spending huge amount of money, running into several hundred crores of rupees. However, only on account of non construction of these three Bridges, the Port Authorities have not been in a position to give this road for

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NMWL. 712-15

quick clearance of the goods from the Port. He also invited our attention to the plan, which is annexed at Exhibit "B" (page 15) to the notice of motion, and also the permissions which have been granted by various authorities. He submitted that the motion may be allowed in terms of prayer clause (a).

6. The learned counsel appearing on behalf of the Original Petitioner i.e. Bombay Environment Action Group submitted that the said bridges are being constructed contrary to the restrictions imposed by this Court. She invited our attention to the conditions, which were imposed by the said order. Secondly, she submitted that while granting permission, the competent authority, including MCZMA, has imposed a specific condition that area of mangroves should not be disturbed. She submitted that acts of the Applicants are causing gross violation of order of this Court, as well as the conditions imposed by the authorities while granting the permission. She further submits no objection from the Forest Department has been taken.

7. We are afraid that we are not in a position to accept the submissions made by the learned counsel appearing on behalf of the Bombay Environment Action Group. It is admitted position that



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NMWL. 712-15

initially when permission was granted to construct the bridges, there were no mangroves in the said area and only as a result of delay in construction, mangroves had cropped up to a certain extent. Even if the bridges are allowed to be constructed, only area of mangroves below the pillars of the bridge would be affected and these mangroves can be re-planted in other suitable and convenient area, and no ecological damage thereby would be caused by construction of these pillars, over which bridges are to be constructed. Moreover, the conditions which are imposed by this Court in the PIL No. 87 of 2006 are of a general nature and in appropriate cases the authorities after examining the fact of the case can always pass the suitable orders. It cannot be said that in view of the said condition which is being imposed, no construction can be carried out in the intervening period or for an indefinite period of time. Upon satisfaction, this Court itself would grant leave and such an infrastructural project can be undertaken. We are satisfied that in the present case no ecological damage would be caused since mangroves were not in existence when initially permission was granted.

8. It is a matter of common knowledge that as a result of

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NMWL. 712-15

stay granted by this Court, several infrastructural projects which are initially for the benefit of the public at large and are public utilities are stalled. Whenever the Court intervenes and grants stay and this results in the escalation of costs and by the time when the stay is vacated, thousand crores of rupees go down the earth and public money is, therefore, wasted. Initially, the learned counsel appearing on behalf of the original Petitioner requested for time to file additional documents. However, said request has been refused, taking into consideration that this is an infrastructure project and the entire project has been stalled for several years only on the ground that leave was not being granted by this Court. We are, therefore, not inclined to grant further time to the Respondent / original Petitioner. When a query is made by this Court to the counsel appearing on behalf of the original Petitioner as to whether they are willing to give an undertaking to this Court that if finally permission is granted after reopening, the costs which would be incurred by the Applicants on account of delay in execution of the project, would be reimbursed by the Original Petitioner. The counsel on instructions of the Petitioner, who is present in the Court, informs us that no such statement can be made.



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NMWL. 712-15

9. It is true that Bombay Environment Action Group has filed some important petitions and has brought important facts to the notice of the Court on the basis of which PILs were entertained and several orders were passed. However, we are of the view that such NGOs should not take adversarial stand and oppose every project for the sake of opposition, without taking into consideration the heavy burden which is cast on the public exchequer as a result of the delay in completion of such infrastructural projects. We are, therefore, satisfied that this is a fit case where permission can be granted to the Applicants to complete their project. In our view, therefore, question of obtaining NOC from the Forest Department in the present case does not arise. Notice of motion is, therefore, allowed in terms of prayer clause (a) and is accordingly disposed of.

Sd/-

[REVATI MOHITE-DERE, J.]

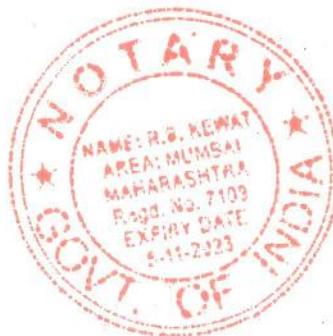
Sd/-

[V. M. KANADE, J.]

Vinayak Halemah



*Yes*



5/6

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and also from the point of view of hygiene and sanitation of the people who are living in the entire area. Secondly, this is the main terminal underground sewerage line connecting the Sanpada STP at Sector 20 from Nerul Sector 22. Thirdly, the said line carries partial sewerage load of Nerul and Sanpada node to STP at Sector 20 Sanpada. Fourthly, the work of other sewerage lines connecting the other areas to the Sanpada STP is already over and STP has not become functional only on account of non-connection of STP because these lines have not been laid under ground at this particular junction. The Corporation proposes to start a new STP plant which is having modern technology. The old STP plant is outdated and functions in an open area. In our view, it is therefore eminently necessary to start the STP plant at Sanpada and for that purpose this work of laying down underground sewerage line has to commence and has to be completed in a shortest possible time. We are therefore satisfied about the public utility of this project. We are therefore of the view that permission will have to be granted to the applicant.

7. So far as destruction of mangroves in the said area as a result of laying down of this pipe line is concerned, pursuant to the earlier order



6/6

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passed by us, we direct the applicant to ensure that if there is a destruction of mangroves in the said area, they shall replant all the mangroves to the extent of five times more than the destruction caused at places which are recommended by the Environmental Action Group. Google map may be submitted to the applicant. The applicant may if possible under the supervision of the Forest Department replant the mangroves at these sites or any other sites which may be recommended by the Forest Department. We hope and trust that the project is completed within three months. The Corporation shall also ensure that the flow of water is not hampered as far as possible.

8. The Notice of Motion is accordingly disposed of

REVATI MOHITE DERE, J.

V.M.KANADE, J.

4/8



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nmw213.13

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.213 OF 2013  
IN  
PUBLIC INTEREST LITIGATION NO.87 OF 2006

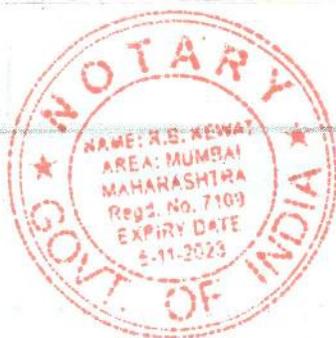
The Bombay Environment Action Group	.. Petitioner.
Vs.	
The State of Maharashtra & Ors. And	.. Respondents.
City and Industrial Development Corporation of Maharashtra Ltd.	.. Applicants.

Mr. G. S. Hegde with Mr. P. M. Bhansali for the Applicants.  
Mr. Sharan Jagtiani with Mr. Jai Chhabor i/b M/s. M. V. Jayakar &  
Co. for the Petitioner.  
Ms. Sharmila Deshmukh for the Respondent-MCZMA.  
Ms. T. H. Puranik for the Respondent-BMC.  
Mr. Rui Rodrigues with Mr. N. R. Prajapati for UOI.  
Mr. J. S. Saluja AGP for the State.

CORAM : MOHIT S. SHAH, C.J. &  
A.K. MENON, J.

DATED : 10 JULY 2015

PC. :



nmw213.13

construct the water supply pipeline support structure on Gadi River at Navi Mumbai.

2. In Writ Petition (Lodging) No.3246 of 2004 by the order dated 6 October 2005 this Court had restrained any destruction of mangroves and any construction activity within the 50 meters buffer zone without permission of this Court.

3. CIDCO approached Maharashtra Coastal Zone Management Authority (MCZMA) for CRZ clearance for above construction activity for water supply pipeline support structure as the area in question falls in CRZ-I and CRZ-II area. The structure will pass over mangrove region and about 50 sq. mtrs. of mangrove will be disturbed. The span of the structure over water is 200 mtrs. and on land it is 50 mtrs. on either side. There are nine columns in the alignment. MCZMA by its communication dated 4 December 2012 recommended the CRZ clearance subject to certain specific conditions including mangrove replantation over 250 sq. mtrs. as also certain general conditions. After receiving the above recommendation, the Government of India in



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nmw213.13

the Ministry of Environment and Forests (MoEF) has by communication dated 15 March 2013 granted CRZ clearance subject to certain specific conditions some of which are as under:

“(i) Due permission from the Hon'ble High Court of Bombay shall be obtained. At least five times re-plantation of mangroves shall be carried out as committed.

“(ii) All the recommendations of MCZMA shall be complied with.”

One of the general condition is as follows :

“8. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the respective competent authorities.”

In view of above CIDCO has moved this Court for obtaining permission.

4. Our attention has been invited to the averments made



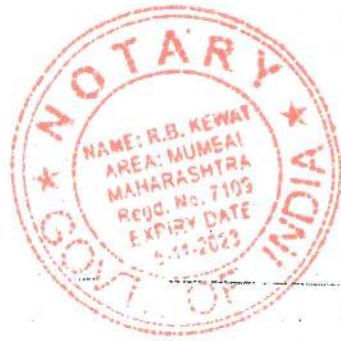
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in the affidavit dated 18 April 2013 in support of Notice of Motion wherein it is stated that CIDCO will plant and grow compensatory mangrove over an area of 250 sq. mtrs. marked on the map annexed at Exhibit-D.

5. Having heard the learned counsel for CIDCO and the learned counsel for the PIL Petitioner and having considered the record and aforesaid submissions, we allow the Notice of Motion and permit CIDCO to construct the water supply pipeline support structure on Gadi River at Navi Mumbai in accordance with MCZMA communication dated 4 December 2012 at Exhibit-A and communication dated 15 March 2013 from Ministry of Environment and Forests for CRZ clearance and all conditions stipulated therein. CIDCO shall comply with all conditions stipulated by the MCZMA and MoEF.

(CHIEF JUSTICE)

(A.K.MENON, J.)



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NMW.72.2013

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.72 OF 2013  
IN  
PUBLIC INTEREST LITIGATION NO.87 OF 2006

Mumbai Metropolitan Region Development Authority Applicant

In the matter of :

The Bombay Environment Action Group and another	Petitioners
versus	
State of Maharashtra and others	Respondents

Ms.Kiran Bagalia for MMRDA.  
Mr.Jai Chabria i by Jayakar & Partners for Petitioners.  
Mr.Rui Rodrigues with Mr.N.R.Prajapati for Union Government.  
Ms.Sharmila Deshmukh for MCZMA.  
Ms.T.H.Putanik for MCGM.  
Mr.N.RPandit, AGP for State.

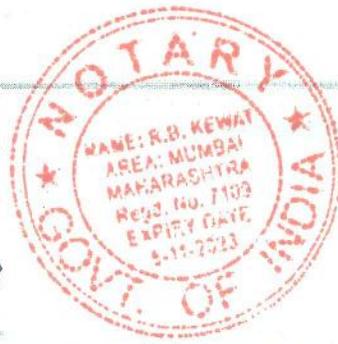
CORAM : MOHIT S. SHAH, C.J. AND  
G.S.KULKARNI, J.

DATE : 25 March 2015

PC :

By an order dated 12 March 2013, this Court had

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NMW.72.2013

Conservator of Forests on a long term basis with MMRDA to attend to all such obligations including selection of the site for planting and actual re-plantation.

2. Learned counsel for MMRDA places on record a copy of the order dated 18 February 2015 of the State Government in the Revenue and Forest Department deputing Mr.V.G.Jukar, Deputy Director, Social Forestry, Raigad Division on deputation with MMRDA. The order is taken on record and marked "X" for identification.

3. Learned counsel for MMRDA further submits that permission may be granted to MMRDA for construction of rail over bridge near Naigaon Railway Station, District Thane on the basis of permission granted by MCZMA on 2 July 2012.

4. MCZMA had granted permission dated 2 July 2012 for construction of rail over bridge near Naigaon Railway Station subject to certain terms and conditions including mangroves re-plantation programme and ten times re-plantation of mangroves to be carried out by MMRDA and compliance report to be submitted to the MCZMA.

5. In view of the deputation of Mr.V.G.Jukar, Deputy Director, Social Forestry, Raigad Division with MMRDA, MMRDA should be in a position to comply with the above conditions. In



3 of 3

NMW.72.2013

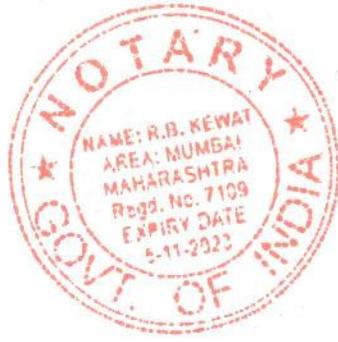
view of the above, MMRDA is permitted to construct rail over bridge near Naigaon Railway Station, District Thane in accordance with the terms and conditions incorporated in the approval granted by MCZMA on 2 July 2012. Notice of Motion stands disposed of in the above terms.

6. It is made clear that MMRDA shall send periodical compliance reports of the plantation work to MCZMA as per terms and conditions of approval granted by MCZMA.

(CHIEF JUSTICE)

(G.S.KULKARNI, J.)

MST



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NMWL. 75-15

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) No. 75 OF 2015

IN

PUBLIC INTEREST LITIGATION No. 87 OF 2006

Dedicated Freight Corridor Corporation  
of India Ltd.

... Applicant

In the matter between

Bombay Environment Action Group & Anr. ... Petitioner

Vs.

The State of Maharashtra & Ors. ... Respondents

\*\*\*\*

Mr. Navroj Seervai, Sr. Counsel a/w Ms. Shreya Parikh i/b M/s. M. V. Jaykar & Co., for the Petitioner.

Ms. Kiran Bagaliya i/b Krishna Kelkar, for the Applicant.

Mr. Rui Rodrigues a/w N. R. Prajapati, for Union Of India.

Ms. Sharmila Deshmukh, for Respondent No. 3.

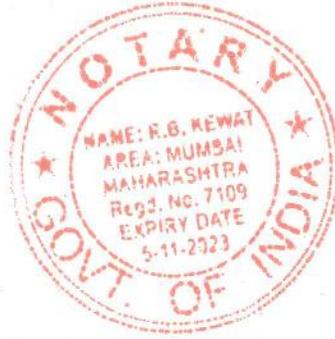
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CORAM : V. M. KANADE, &  
A. R. JOSHI, JJ.

DATE : MARCH 2, 2015

PC.

1. Perused the affidavit filed in support of the notice of motion. It is submitted that in the order passed by the Division Bench on 27<sup>th</sup> January, 2010, this Court had observed that if permission is granted by the competent authority, the same shall be subject to the approval of this Court and the party should obtain leave of the Court



NMWL. 75-15

before before implementing the project in mangroves area.

2. It is submitted that permissions have been granted by the concerned authority for cutting 543 mangrove trees and for carrying out construction of new Freight Railway Double Line from JNPT (Maharashtra) to Dadri (UP), in the State of Maharashtra. It is submitted that even the Supreme Court has granted approval and all other authorities have granted permission. Our attention is invited to the permission granted by the Ministry of Environment and Forest and the other authorities, including diversion of Sanjay Gandhi National Park to a certain extent. We are satisfied that necessary permission has been obtained for cutting 543 mangroves. Taking into consideration that it is a project of national importance, and permission is granted by all other authorities, we grant leave in terms of prayer clause (a).

Sd/-  
[A. R. JOSHI, J.]

Sd/-  
[V. M. KANADE, J.]

Vinayak Halemath



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NMW 290-2014

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
 ORDINARY ORIGINAL CIVIL JURISDICTION  
 NOTICE OF MOTION NO. 290 OF 2014  
 IN  
 PIL NO. 87 OF 2006

Hindustan Petroleum Corporation Ltd. .. Applicants  
 Bombay Environmental Action Group & Anr. .. Petitioners  
 V/s  
 State of Maharashtra & Ors. .. Respondents

Mr. M.D. Siodia i/b Rustomji & Givwala for the applicant.  
 Mr. N.R. Prajapati with Mr. Rui Rodrigues for the respondent – Union  
 of India.  
 Mr. N.P. Pandit, A.G.P. for the respondent – State.

CORAM: MOHIT S. SHAH, C.J. &  
 B.P. COLABAWALLA, J.

DATE : 20 DECEMBER 2014

P.C.

The applicants have taken out this notice of motion for  
 the following relief:

- (a) This Hon'ble Court may be pleased to grant permission  
 to the Applicants for laying 12" dia LPG pipeline along  
 with Optical Fiber Cable (OFC) by horizontal  
 directional drilling method, below the root of the  
 mangroves near Karanja Creek near Navghar and



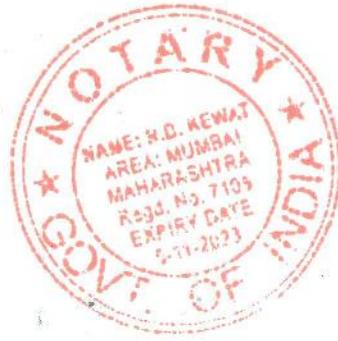
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NMW 290-2014

Ghasakoshi village in Uran (as shown in the map which is annexed and marked as Exhibit "D" and Exhibit "E" to the affidavit in support) and at Patalganga River near Kharpada village in Pen Tehsil, District Raigad (as shown in the map which is annexed and marked as Exhibit "F" to the affidavit in support) without disturbing/cutting the mangroves."

2. The learned counsel for the applicants invites our attention to the submission dated 7 June 2014 of the Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State, Nagpur and the approval dated 11 November 2014 granted by Ministry of Environment, Forests and Climate Change of the Government of India for laying the above pipeline to the Chief Manager, LPG Project, Hindustan Petroleum Corporation Ltd. in Raigad District subject to terms and conditions mentioned therein. One of the terms and conditions is that the User Agency shall obtain the permission of this Court for implementing the project in mangrove areas as per the order dated 27 January 2010 in PIL No. 87 of 2006.

3. The learned counsel for the applicants also invites our attention to the undertaking dated 17 December 2014 given by Shri P.S. Murthy, Deputy General Manager, LPG Projects of the applicants. Paragraphs 2, 3 and 4 of the undertaking read as under:



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NMW 290-2014

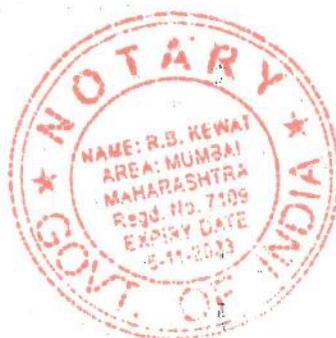
"2. I say that the Applicant is laying underground pipeline for LPG from Uran to Chakan and Shikrapur near Pune. The said LPG pipeline is crossing Karanja creek in Ghasakoshi village (Uran Tehsil) and Patalganga river in Kharpada village (Pen Tehsil) and at both places it is encouraging small patches of Mangroves forest.

3. I say that to avoid damaging the mangroves Applicants are laying pipeline by Horizontal Directional method while crossing the said mangroves areas. The said drilling method is state of art technology and the same is done by imported drilling machine. The said LPG pipeline would be laid at a depth of 10 meters below the ground level without cutting and/or disturbing the mangroves and also the pipeline will not even touch the roots of the mangroves.

4. We hereby undertake to comply with the recommendations by Maharashtra Coastal Zone Management Authority and Ministry of Environment and Forests, Government of India. We also undertake that the Applicant will not be cutting and/or disturbing the mangroves as the LPG pipeline will also not touch the roots of the mangroves."

We accept the above undertaking.

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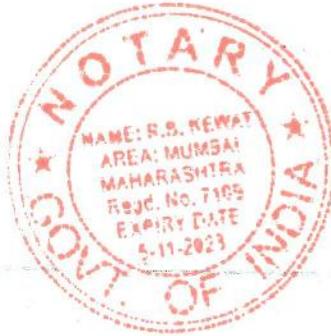
NMW 290-2014

4. In view of the permission granted by Ministry of Environment and Forest and in view of the above undertaking, we see no impediment for grant of permission to the applicant, which is a public sector undertaking for laying the pipeline.

5. In view of the above, we allow the notice of motion in terms of prayer clause (a) quoted hereinabove.

CHIEF JUSTICE

(B.P. COLABAWALLA, J.)



dgm

1

906-nmw-62-13.sxw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
NOTICE OF MOTION NO.62 OF 2013

IN

PUBLIC INTEREST LITIGATION NO. 87 OF 2006

Mumbai Railway Vikas Corporation

.... Applicants

vs

1 The Bombay Environment Action Group  
and another

... Petitioners

vs.

1 State of Maharashtra and others

.... Respondents

Mr. Kiran Bagalia i/by Chitra Phadke for the applicants.

Mr. Gulnan Mistry i/by M. V. Jayakar for the petitioners.

Mr. N. P. Pandit, AGP for respondents-State

Mr. Rui Rodrigues with Mr. N.R. Prajapati for respondent No.2-Union of  
India.

Ms. Sharmila Deshmukh for respondent no.3-MCZMA.

**CORAM: MOHIT S. SHAH, C.J.  
AND ANOOP V. MOHTA, J.**

**DATE : March 06, 2013**

**P.C.:**

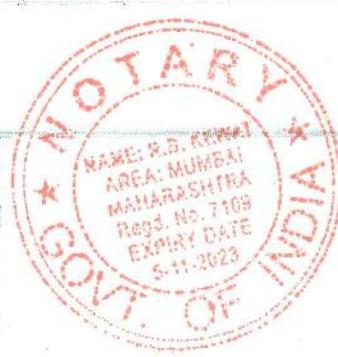
This Notice of Motion has been taken out by the Mumbai  
Railway Vikas Corporation, a Government of India undertaking, under the  
Ministry of Railways, for the following relief:

"a) The Hon'ble court be pleased to grant leave to  
the Applicant, Mumbai Railway Vikas Corporation  
Ministry of Railways for carrying out construction of  
5<sup>th</sup> & 6<sup>th</sup> lines between Thane and Diva Station of

dgm

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906-nmw-62-13.sxw



2 By the aforesaid permission dated 5<sup>th</sup> December, 2012 the applicants have been granted approval in principle for diversion of 3.231 hectare reserved forest land for construction of 5<sup>th</sup> and 6<sup>th</sup> lines between Thane and Diva station of Central Railway and subject to the conditions stipulated in the said communication. The communication sets out 11 conditions. After setting out those conditions, it is further stated that after receipt of the compliance report on the fulfillment of condition Nos. 2(b), 3, 4, 5 and 6 from the State Government, formal approval will be issued in this regard under section 2 of the Forest (Conservation) Act, 1980 by the Conservator of Forests (C), under the Ministry of Environment and Forests, Regional Office, Western Region, at Bhopal.

3 Having heard the learned counsel for the parties and in view of the above in principle approval granted by the Ministry of Environment and Forests on 5 December, 2012, we allow this Notice of Motion in terms of prayer (a).

4 Notice of Motion stands disposed of accordingly.

The parties to act on a copy of this order duly authenticated by the Court Associate.

CHIEF JUSTICE

(ANOOP V. MOHTA, J.)

TRUE COPY  
  
 Anoop V. Mohta  
 CHIEF JUSTICE





MUMBAI METROPOLITAN REGION DEVELOPMENT AUTHORITY

मुंबई महानगर प्रदेश विकास प्राधिकरण

*Rep  
2/6/2016*

Date - 06.06.2016

TO WHOMSOEVER IT MAY CONCERN

With respect of the PIL No. 87/2006 in the High Court, Bombay Environmental Action Group & Anr. V/s. The State of Maharashtra & Ors. I hereby authorize Mr. Milind H. Paranjpe, Executive Engineer, Engineering Division, MMRDA to file MMRDA's Affidavit in the said matter on behalf of MMRDA the specimen signature of Mr. Milind H. Paranjpe is as below :

*Paranjpe*  
Milind H. Paranjpe  
(Specimen Signature)

Yours faithfully,

*Mandapure*  
(Prakash Mandapure)  
Engineer in Chief

TRUE COPY  
For Vidhi Advocates

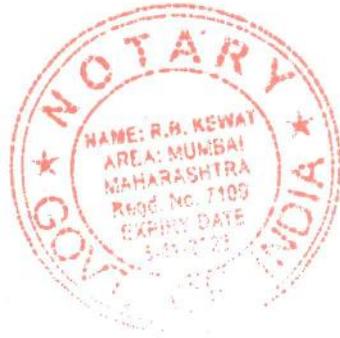
*WJ*

Bandra - Kurla Complex, Bandra (East), Mumbai - 400 051.

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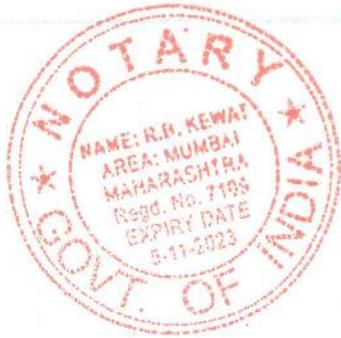


*Handwritten signature in blue ink.*





*ukf*



IN THE HIGH COURT OF JUDICATURE  
AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
NOTICE OF MOTION NO. OF 2016

IN

PIL NO. 87 OF 2006

Mumbai Metropolitan Region  
Development Authority ... Applicant  
(Orig. Respondent No. 7)

In the matter between:

Bombay Environment Action Group  
& Ors. ... Petitioners

Versus

State of Maharashtra & Ors. ... Respondents

AFFIDAVIT IN SUPPORT OF NOTICE OF  
MOTION

Dated this 8 day of June, 2016

Vidhi Partners, Advocates  
Mrs. Chitra Phadke  
Advocates for Applicant/Respondent No.7,  
Ground floor, Construction House,  
5, Walchand Hirachand Marg,  
Ballard Estate,  
Mumbai - 400 001

*MS*