

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO.64 OF 2024WZ

(EARLIER ORIGINAL APPLICATION NO.173 OF2024PB)

NEWS ITEM TITLED"TREES FELLED FORMECO-PARK  
LEAVE BEHIND BARREN LAND" APPEARED IN THE TIMES O  
OF INDAI DATED 12.01.2024

VERSUS

- 1 Principle Chief Conservator of Forest.
- 2 District Collector Pune ... Respondents

INDEX

S.No.	Exhibit	Particulars	Page Nos.
1)	-	Affidavit in reply of R.No.2	3 To 13
2)	R1	Approval of working Plan by MoEF dated 07.11.2023	14 To 21
3)	R2	Copy of Prescription of the Urban Forest Management under Chapter -8	22 To 33
4)	R3	Old Plantation Management	34 To 44

- 5) R4 Eco Tourism Chapter 12 45 To 52
- 6) R5 List of Proposed Eco-Tourism Centre  
in Pune 53-
- 7) R6 Proposal for Wanawadi Van Udyan 54 To 70
- 8) R7 Minutes of the meeting dated 04/09/2023  
By Maharashtra Eco-Tourism Development  
Board 71 To 82
- 9) R8 List of removed Glirisidia trees in S.No.49  
Wanawadi Forest 83 To 85
- 10) - Additional Affidavit By R.No.1 86 To 90
- 11) R9 Copy of the Maharashtra Felling of Trees  
(Regulation Act, 1964 91 To 96
- 12) R10 Copy of the Maharashtra (Urban Areas)  
Protection & Preservation of  
Trees Act, 1975 97 To 107
- 13) R11 Copy of order passed by Supreme Court in  
Dated 29.1.20201 in IA in WP©202/1995 108-167

Pune

Date: 23/04/2024



Advocate for Respondent No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**WESTERN ZONE BENCH, PUNE**

ORIGINAL APPLICATION NO. 64 OF 2024 WZ  
(EARLIER ORIGINAL APPLICATION NO.173 OF 2024  
(PB))

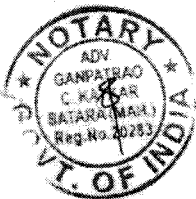
NEWS ITEM TITLED "TREES FELLED FOR  
ECO-PARK LEAVE BEHIND BARREN LAND"  
APPEARING IN THE TIMES OF INDIA DATED  
12.01.2024

1. Principal Chief Conservator of Forest.
2. District Collector Pune. –Respondents

**Additional Affidavit in Reply on the behalf of**  
**Respondent No.1.**

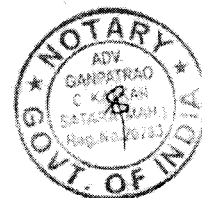
I, Shri. Mahadev Namdev Mohite, age 47 years, working as Deputy Conservator Of Forest, Pune Forest Division, Pune hereby solemnly affirms on behalf of Respondent Nos.1 as under :-

1. I say that I have filed my detail affidavit in reply with annexure .I repeat and retreat the same and in addition to clarify the situation I file this additional affidavit. It



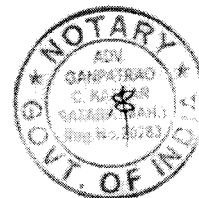
is submitted that forest is included in the Concurrent list of Indian constitution, Prescriptions of working plan were approved by State Level Committee and Ministry of Environment Forest and Climate Change, New Delhi Hon. Supreme Court, New Delhi in its order Dated 29th November 2021 in IA Nos.169030/2019 and 105674/2020 in W.P. (c) No. 202/1995 with IA Nos.142873/2021, 142876/2021 and 144462/2021 In I.A. NO 105674/ 2020 in W.P.(c) No.202/1995 directed that felling of trees in all forests must be in accordance with the working plan approved by the Central Government. Hence permission under State law is void and not required.

2. In approved Working Plan of Pune Division *Gliricidia* is at all not mentioned in the list of flora. This being non forest exotic species, after considering its ill effects on local habitat and native indigenous species it is permitted to be uprooted and eco-restore the habitat with native species. In last working plan



(2012-13 to 2021-22) it is mentioned that if the results of plantations done after uprooting glyricidia are favorable and are approved by Chief Conservator of Forest (T) and Chief Conservator of Forest (WP), Pune then this practice should be continued. After reviewing the progress of plantations it is specifically submitted in new working plan (2023-24 to 2032-33) that growth of these plantations are satisfactory. Hence the same practice is Continued till implementation of new working plan and also included in new working plan. Practice of replacing Gliricidia from reserve forest of Pune Division is continue for last six years which is permitted under approved working plans.

3. When forestry activities are done in accordance with working plan prescriptions reporting is done through control forms but when variation is done / proposed from working plan prescriptions reporting is done

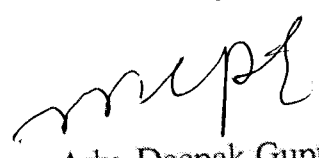


RY  
10  
FIN

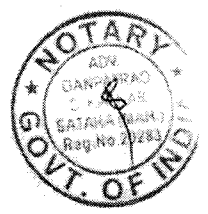
through deviation proposal, and such deviations requires to be sanctioned from competent authorities.

  
**Respondent**

Settled by,



Adv. Deepak Gupte.  
The National Green Tribunal  
Western Zone Bench, Pune



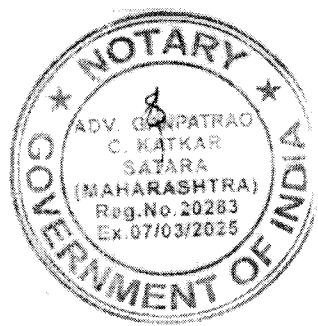
VERIFICATION

I, Shri. Mahadev Namdev Mohite age 47 years, working as Deputy Conservator of Forest, Pune Forest Division, Pune hereby solemnly affirm on behalf of the State of Maharashtra Forest Department do hereby solemnly declares that what is stated in aforesaid paragraphs is true and correct to my knowledge and I believe the same to be true and correct.

Solemnly declared at Pune

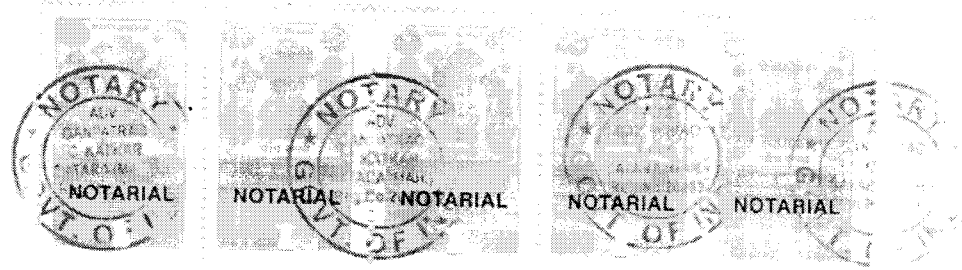
This 21<sup>th</sup> day April, 2024

*[Signature]*  
Deponent



BEFORE ME  
*[Signature]*  
23/4/24  
ADV. GANPATRAO C. KATKAR  
NOTARY GOVT. OF INDIA  
REG. NO. 20283 AREA SATARA (MAHARASHTRA)  
Mob. No. 9637613767

NOTED & REGISTERED  
at Serial No. 24/2024  
Date 23/04/2024



R 9

MAHARASHTRA ACT No. XXXIV OF 1964.<sup>1</sup>

[ THE MAHARASHTRA FELLING OF TREES (REGULATION) ACT, 1964 ]

(Received the assent of the Governor on the 4th September 1964; assent first published in the Maharashtra Government Gazette, Part-IV, on the 7th September 1964.)

Amended by Mah. 31 of 1967.  
Amended by Mah. 19 of 1969.

Amended by Mah. 17 of 1987.  
Amended by Mah. 26 of 1989.

An Act to make better provision for regulating the felling of certain trees in the State of Maharashtra, for the purpose of the preservation thereof.

WHEREAS, it is expedient to make better provision for regulating the felling of certain trees in the State of Maharashtra, for the purpose of the preservation thereof, and for the protection of the soil against erosion and to provide for matters connected therewith; It is hereby enacted in the Fifteenth Year of the Republic of India as follows, namely :—

1. (1) This Act may be called the Maharashtra Felling of Trees (Regulation) Act, 1964. Short title and extent.
- (2) It extends to the whole of the State of Maharashtra but excluding an urban area.

2. In this Act, unless the context otherwise requires,— Definitions.

Mah. XLI of 1966. <sup>2</sup>[(a) "Code" means the Maharashtra Land Revenue Code, 1966;]

<sup>2</sup>[(b)] "Collector" includes a Revenue Officer appointed by the State Government to exercise the powers and perform the functions of the Collector under this Act;

XVI of 1927. <sup>2</sup>[(c)] "Forest-Officer" means a Forest Officer within the meaning of the Indian Forest Act, 1927;

<sup>3</sup>[ \* \* \* \* \* ]

(d) "Revenue Officer" means a Revenue Officer within the meaning of the <sup>4</sup>[Code];

(e) "to fell a tree" includes burning or cutting or lopping a tree, to cause substantial damage or destruction thereto;

(f) "tree" means any tree specified in the Schedule; and the State Government may, by notification in the *Official Gazette*, and to or modify the Schedule, after considering the necessity for the protection of any variety of trees; and the provisions of sub-section (2) of section 15 in so far as they relate to laying before, and modification by the State Legislature shall apply in relation to such notification as they apply in relation to any rule made under that section;

<sup>5</sup>[(ff) "Tree Officer" means a 'Forest Officer' not below the rank of a Range Forest Officer;]

<sup>1</sup> For Statement of Objects and Reasons, See *Maharashtra Government Gazette, 1964, Part-V, P. 197.*

<sup>2</sup> Clauses (a) and (b) were re-lettered as clauses (b) and (c) and before clause (b) as so re-lettered clause (a) was inserted by Mah. 17 of 1987, s. 2(a).

<sup>3</sup> Existing clause (c) was deleted, *ibid.*, s. 2(b).

<sup>4</sup> This word was substituted for the words "relavant Code" *ibid.*, s. 2(c).

<sup>5</sup> Clause (ff) was inserted by Mah. 26 of 1989 *ibid.*, s. 2.

*Maharashtra Felling of Trees (Regulation) [1964 : Mah. XXXIV  
Act, 1964*

(g) "urban area" means the area within the limits of a municipality, Municipal Corporation, Municipal Committee, Town Committee, or notified area committee or Cantonment constituted under any law for the time being in force; and includes a local area which is specified by the State Government in the *Official Gazette*, being an area which has a population of not less than five thousand and has not less than three-fourths of male workers engaged in non-agricultural pursuits;

(h) words and expressions used but not defined in this Act shall have the meanings, respectively, assigned to them in the <sup>1</sup>[Code.]

Restriction on felling of trees. 3. (1) Notwithstanding any custom, usage, or law for the time being in force, or the decree or order of a Court, or anything contained in any instrument to the contrary, no person shall fell any tree or cause such tree to be felled in any land, whether of his ownership or otherwise, except with the previous permission in writing of a <sup>2</sup>[Tree Officer] duly empowered by the State Government in that behalf <sup>3\*</sup> \* \* \*

<sup>4</sup>[(1A) If any person wishes to fell a tree, he shall apply in writing to the <sup>5</sup>[Tree Officer] empowered under sub-section (1) for permission in that behalf.

(1B) The <sup>5</sup>[Tree Officer] on receipt of an application—

(a) shall acknowledge the application within seven days;

(b) may, after due enquiry, either grant or refuse the permission, applied for in accordance with the provisions of rules made under section 15 :

Provided that, no such permission shall be refused if the tree is dead, diseased or windfallen, or if it has silviculturally matured, <sup>6</sup>[or if it constitutes obstruction to traffic, or if it is substantially damaged or destroyed by fire, lightning, rain, or other natural causes,] or if it constitutes an obstruction to efficient cultivation :

<sup>7</sup>[Provided further that such permission shall be granted subject to the condition that the applicant shall plant equal number of trees of the same or any other species as the Tree Officer may direct on the same site or other suitable place in the vicinity in the ensuing planting season;]

(1C) If the <sup>5</sup>[Tree Officer] fails to inform that applicant of his decision within <sup>8</sup>[sixty days] from the date of acknowledgement of the application, or from the date of receipt of the application, if the application is not acknowledged, the permission applied for shall be deemed to have been granted.]

(2) Any person aggrieved by an order of the <sup>5</sup>[Tree Officer] refusing to grant permission under <sup>9</sup>[sub-section (1B)] may, within thirty days of the receipt of such order, appeal to the Collector. Subject to such rules of procedure as may be prescribed, the Collector may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as he thinks just and proper.

<sup>1</sup> This word was substituted for the words "relevant Code" by Mah. 17 of 1987, s. 2 (d).

<sup>2</sup> These words were substituted for the words "Revenue Officer not below the rank of a Deputy Collector" by Mah. 26 of 1989, s. 3 (a).

<sup>3</sup> The portion beginning with the words "and in accordance with the Provisions of rules" and ending with the words "or if it constitutes an obstruction to efficient cultivation" was deleted by Mah. 31 of 1967, s. 2 (a).

<sup>4</sup> Clauses (1A) to (1C) were inserted, *ibid.* s. 2 (b).

<sup>5</sup> These words were substituted for words "Revenue Officer" by Mah. 26 of 1989, s. 3 (b), (c) (i), (d) (i) and (e) (i) respectively.

<sup>6</sup> These words were inserted, *ibid.* s. 3 (c) (ii).

<sup>7</sup> The proviso was added, *ibid.* s. 3 (c) (iii).

<sup>8</sup> These words were substituted for the words "ninety days", *ibid.* s. 3(d) (ii).

<sup>9</sup> These words, brackets, figures and letters were substituted for the words, brackets and figures "sub-section (1)", *ibid.* s. 3(e) (ii).

1964 : Mah. XXXIV]

3

*Maharashtra Felling of Trees (Regulation)  
Act, 1964*

<sup>1</sup>[3A. (1) If in the opinion of the Tree Officer the number of trees in any land (other than the land falling in any permanent drought-prone area identified by the State Government) is not adequate according to the standards prescribed by the rules made under section 15, the Tree Officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant such trees or additional trees, as the case may be, at such places in the land as may be specified in the order; and the owner or occupier of the land shall comply with the order by planting such trees or additional trees in the ensuing planting season.

(2) It shall be the duty of the owner or occupier of the land who is required by an order made under sub-section (1) to plant a tree or trees to ensure that they grow properly and are well preserved.

(3) Where the owner or occupier fails to comply with an order made under sub-section (1) the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of making representation and without prejudice to any other action which may be taken against the defaulter under this Act take necessary action himself and recover the expenditure incurred therefor from the owner or occupier, as the case may be, after giving a notice of demand for the amount payable by him. If the amount is not paid within the time specified by the Tree Officer in the notice, it shall be recovered along with interest at six per cent. per annum and other incidental expenses, if any.]

4. Any person who, <sup>2</sup>[without permission being granted or deemed to have been granted] to fell any tree, fells any such tree or causes it to be felled, shall be liable to such penalty not exceeding one thousand rupees as the <sup>3</sup>[Tree Officer] empowered under section 3 may, after holding an enquiry and giving such person an opportunity of being heard, deem fit to impose; and the <sup>3</sup>[Tree Officer] may further order that any such tree to be felled (which is not the property of Government) shall be forfeited to the State Government <sup>4</sup>[along with the tools, boats, vehicles or other conveyances used in felling and removing, any such tree.]

5. (1) Every Revenue Officer, Forest Officer and Police Officer shall be bound—

(a) to give immediate information of any contravention of section 3 to the officer empowered under that section and of the intention or preparation to commit such contravention which may come to his knowledge;

(b) to take all reasonable measures in his power to prevent such contravention which he may know or have reason to believe is about or likely to be committed.

(2) Any Revenue Officer, not below the rank of an Aval Karkun or Naib-Tahsildar, Forest Officer not below the rank of a Range Forest Officer and Police Officer not below the rank of a Sub-Inspector may enter upon any land, where he has reason to believe that any tree has been or is being felled, in contravention of section 3 and seize such felled tree or any loppings thereof, together with its produce and tools, boats, <sup>5</sup>[vehicles and other conveyances] used in committing such contravention, place on such property a mark indicating that the same has been so seized and shall make a report of such seizure to the <sup>6</sup>[Tree Officer empowered] under section 3.

(3) Where any property is seized under sub-section (2), the officer seizing it, shall keep the property in his own custody, or in the custody of any of his subordinates, and shall be responsible for the due custody thereof :

<sup>1</sup> This section was inserted by Mah. 26 of 1989, s. 4.

<sup>2</sup> These words were substituted for the words "without obtaining permission" by Mah. 31 of 1967, s. 3.

<sup>3</sup> These words were substituted for words "Revenue Officer" by Mah. 26 of 1989, s. 5 (a).

<sup>4</sup> These words were added, *ibid*, s. 5 (b).

<sup>5</sup> These words were substituted for the words "vehicle or cattle", *ibid*, s. 6 (a) (i).

<sup>6</sup> These words were substituted for the words "Revenue Officer empowered", *ibid*, s. 6 (a) (ii).

*Maharashtra Felling of Trees (Regulation) [ 1964 : Mah. XXXIV  
Act, 1964*

Provided that, where the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer seizing it may sell it at once :

Provided further that, where such property cannot conveniently be removed, the officer seizing it may, at the instance of the person interested in the property, leave it at the place where it has been seized in the charge of the person interested in the property or in the charge of any respectable person as will undertake to keep such property on his entering into a bond with one or more sureties in an amount not less than the value of the property, that he will take proper care of such property, and produce it when called for.

(4) If the property so seized is not ordered to be forfeited to the State Government under section 4, that property shall be returned to the person from whom it was seized.

(5) If any claim is set up by a third person to the property seized as aforesaid, the <sup>1</sup>[Tree Officer] empowered under section 3 shall inquire into claim and may admit or reject it, after hearing such person in respect thereof.

Procedure in cases to be dealt with under this Act. <sup>2</sup>[6. Subject to the provisions of this Act and the rules made thereunder, the provisions of Chapters XII and XIII of the Code shall apply in relation to cases dealt with under this Act as those provisions apply in relation to cases of unauthorised felling of trees dealt with under the Code.]

Award of penalty or confiscation not to interfere with other punishments. 7. The award of any penalty or confiscation of any property under this Act shall not prevent the inflicting of any punishment to which the person affected thereby is liable under any other law.

Inquiries and proceedings to be judicial proceedings. 8. All inquiries and proceedings before any <sup>1</sup>[Tree Officer] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. XLV of 1860.

Officers to be public servants. 9. The Officers exercising powers or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860

Execution of order for payment of money. 10. Any sum the payment of which has been directed by any <sup>1</sup>[Tree Officer] or State Government under this Act shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

Bar of proceedings. 11. No suit or proceedings shall lie against the State Government or against any person empowered to exercise powers or to perform duties or discharge functions under this Act, for anything in good faith done or purporting to be done under this Act.

<sup>1</sup> These words were substituted for the words "Revenue Officer" by Mah. 26 of 1989, s. 6(b), s. 7 and s. 8, respectively.

<sup>2</sup> This section was substituted for the original by Mah. 17 of 1987, s. 4.

1964 : Mah. XXXIV ] *Maharashtra Felling of Trees (Regulation)*  
Act, 1964

12. Subject to such conditions (if any) as may be imposed, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any local area from all or any of the provisions of this Act. Exemption.

13. Nothing in section 3 shall apply to the felling of any tree for preventing damage to person or property or for abating any nuisance on one's own land. Savings.

14. The provisions of this Act shall be in addition to the provisions of any other law for the time being in force prohibiting or regulating the felling of trees. Provisions of this Act to be in addition to any other law for the time being in force.

15. (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act. Power to make rules

(2) Every rule made under this section shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the *Official Gazette*, the rule shall, from the date of such notification, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of any thing previously done or omitted to be done under that rule.

### SCHEDULE

[See section 2 (f)]

1. *Terminalia Chebula* (Hirda).
- <sup>1</sup>[2. *Teak*]
- <sup>2</sup>[3. *Madhuca Latifolia* (Mahua, Mhowra or Mahu)]
4. *Tamarindus Indica* (Tamarind, Chinch or Imli.)
- <sup>3</sup>[5. *Mangifera Indica* (Mango)]
6. *Artocarpus Integrifolia* (Jack)].
- <sup>4</sup>[7. *Acacia Catechu* (Khair)].

<sup>1</sup> Entry 2 was added *vide* G. N., R. & F. D., No. TRS. 1165/152115, dated the 19th January 1968.

<sup>2</sup> Entries 3 and 4 were added *vide* G. N., R. & F. D., No. TRS. 1069/17631/B, dated the 27th December 1969.

<sup>3</sup> Entries 5 and 6 were substituted *vide* G. N., R. & F. D., No. TRS. 1080/36954/929-G-7, dated the 9th January 1981.

<sup>4</sup> Entry 7 was added *vide* G. N., R. & F. D., No. TRS. 1169/187626-B, dated the 7th December 1970.

*Maharashtra Felling of Trees (Regulation) Act, 1964* [1964: Mah. XXXIV

- <sup>1</sup>[8. *Santalum* (Sandal).]
- <sup>2</sup>[9. *Pterocarpus marsupium* (Bija).
- 10. *Adina cordofolia* (Haldu).
- 11. *Ougeinia dalbergioides* (Tiwas).]
- <sup>3</sup>[12. *Terminalia tomentosa* (Ain).]
- <sup>3</sup>[13. *Terminalia Peniculata* (Kinjal or Kindal).]
- <sup>4</sup>[14. *Hardwickia binata* (Anjan).
- 15. *Syzgium cumini* (Jambhul).]
- <sup>3</sup>[16. Mangrove.

*Explanation.*—For the purposes of this entry, “Mangrove” includes *Rhizophora mucronata* (Lamk), *Rhizophora apiculata* (Biam), *Cerlops candolleana* (Ara), *Kandelia rheedei* (Wight), *Bruguiera gymnorrhiza* (Lamk), *Lumnitzera recemosa* (Willd), *Sonneratia apetala* (Buch Ham), *Sonneratia acida* (Dinn), *Avicenia officinalis* (Linn), *Avicenia marina* (Linn), *Acanthus ilicifolius*, *Aegiceras majus* and *Salvadora persica* (Linn).]

<sup>1</sup> Entry 8 was added *vide* G. N., R. & F. D., No. TRS. 1165/152115-B, dated the 15th May 1973.

<sup>2</sup> Entries 9, 10 and 11 were added *vide* G. N., R. & F. D., No. TRS. 1165/152115-B, dated the 9th March 1974.

<sup>3</sup> Entries 12, 13 and 16 were added *vide* G. N., R. & F. D. No. TRS. 1085/812399/G-7, dated the 28th January 1987.

<sup>4</sup> Entries 14 and 15 were added *vide* G. N., R. & F. D., No. TRS. 1075/4962-G-6, dated the 16th January 1976.

R 10

1975 : Mah. XLIV]

(i)

**THE MAHARASHTRA (URBAN AREAS) PROTECTION AND  
PRESERVATION OF TREES ACT, 1975**

CONTENTS

PREAMBLE.  
SECTIONS.

CHAPTER I  
PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II  
ESTABLISHMENT AND PROCEDURE OF TREE AUTHORITY

3. Establishment of Tree Authority.
4. Meeting of Tree Authority.

CHAPTER III  
OFFICERS AND SERVANTS

5. Appointment of Tree Officer.
6. Appointment of other officers and servants.

CHAPTER IV  
DUTIES OF TREE AUTHORITY

7. Duties of Tree Authority.

CHAPTER V  
RESTRICTIONS ON FELLING OF TREES AND LIABILITY FOR PLANTING  
AND PRESERVATION OF TREES

8. Restrictions on felling of trees.
9. Power to require planting of adequate number of trees.
10. Power to require planting of a tree in place of fallen or destroyed tree.
11. Responsibility for preservation of trees and power to take deposit for proper compliance.
12. Adoption of trees.
13. Forfeiture of deposit and recovery of expenditure on failure to comply with orders for planting trees.
14. Appeals.

CHAPTER VI  
FINANCE, BUDGET AND ACCOUNTS

15. Fund of Tree Authority.
16. Budget.
17. Accounts and audit.

CHAPTER VII  
TREE CESS

18. Levy and collection of Tree cess.

CHAPTER VIII  
MISCELLANEOUS

19. Permission for development of land to be given with approval of Tree Officer.
20. Power of Tree Authority to give directions.
- 20A. Prevention of felling or destruction of trees.
- 20B. Power of entry for the purposes of this Act.
21. Offence and penalty.
22. Power to make rules.

**MAHARASHTRA ACT No. XLIV OF 1975<sup>1</sup>**

[THE MAHARASHTRA (URBAN AREAS) PROTECTION AND PRESERVATION OF TREES ACT, 1975]  
[ 16th September, 1975]

Amended by Mah. 3 of 1977 (8-1-1977).†  
" " " 7 of 1996 (8-1-1996)†  
" " " 10 of 2010 (1-6-2010)†  
" " " 6 of 2012 § (12-3-2012)†  
" " " 15 of 2015

An Act to make better provision for trees in urban areas in the State by regulating felling of trees and providing for planting of adequate number of new trees in those areas.

WHEREAS with the growing pace of urbanisation and industrialisation, there has been indiscriminate felling of large number of trees in the urban areas of the State of Maharashtra ;

AND WHEREAS it is expedient to make better provision <sup>2</sup>[for protection and preservation] of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas and to provide for matters connected therewith; It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows, namely :—

**CHAPTER I**

PRELIMINARY

1. (1) This Act may be called the Maharashtra (Urban Areas) <sup>3</sup>[Protection and Preservation] of Trees Act, 1975.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force in any urban area or part thereof on such date as the State Government may, by notification in the *Official Gazette*, specify; and different dates may be specified for different urban areas or parts thereof.

2. In this Act, unless the context otherwise requires,—

<sup>4</sup>[(1a) "prescribed" means prescribed by rules made under section 22 of this Act;]

(a) "preservation of trees" includes planting of new trees and <sup>5</sup>[other operations for survival and propagation of the trees;]

(b) "relevant Act" means the Act under which the urban local authority concerned is constituted;

(c) "to fell a tree" includes burning or cutting or <sup>6</sup>[in any way damaging a tree;]

<sup>7</sup>[(d) "tree" means any perennial woody plant, whether in the seeding or sappling stage or fully grown stage, and includes shrubs whose branches spring from the ground level;]

(e) "Tree Officer" means an officer appointed as such by the Tree Authority for the purpose of this Act;

(f) "Urban area" means a municipal corporation area for which a municipal corporation is constituted under <sup>8</sup>[the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act, or a municipal area within the meaning of clause (24) of section 2 of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965,] and includes a notified area for which a Special Planning Authority is constituted or appointed under section 40 of the Maharashtra Regional and Town Planning Act, 1966 or an area designated as the site for a new town for which a Development Authority is constituted under section 113 of the Maharashtra Regional and Town Planning Act, 1966;

Bom. III  
of 1888.  
LIX of  
1949.  
Mah. XL  
of 1965.  
Mah.  
XXXVII  
of 1966.  
Mah.  
XXXVII  
of 1966.

1 For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1975, Part V, page 596.

2 These words were substituted for the words "for preservation" by Mah. 7 of 1996, s. 2.

3 These words were substituted for the word "preservation" by Mah. 7 of 1996, s. 3.

4 Clause (1a) was inserted, by Mah. 7 of 1996, s. 4.

5 These words were substituted for the words "transplanting trees to other sites" by Mah. 3 of 1977, s. 2(a).

6 These words were substituted for the words "lopping a tree to cause substantial damage or destruction thereto" by Mah. 3 of 1977, s. 2(b).

7 Clause (d) was substituted for the original by Mah. 3 of 1977, s. 2(c).

8 These words were substituted for the words "the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporation Act, 1949 or the City of Nagar Corporation Act, 1948, or a municipal area for which a Municipal Council is constituted under the Municipalities Act, 1965" by Mah. 15 of 2015, s.2.

† This indicates the date of commencement of Act.

\* See now, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965.

§ Maharashtra Ordinance No. IV of 2012 was repealed by Mah. VI of 2012, s. 12.

Short title,  
extent and  
commence-  
ment.

Definitions.

2 *Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975* [1975 : Mah. XLIV]

(g) "urban local authority" in respect of any urban area, means the municipal corporation, municipal council, Special Planning Authority or Development Authority, as the case may be, having jurisdiction over that area;

(h) words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the relevant Act.

## CHAPTER II

### ESTABLISHMENT AND PROCEDURE OF TREE AUTHORITY

Establishment of Tree Authority. 3. (1) As soon as may be after this Act is brought into force in any urban area the urban local authority concerned shall constitute a Tree Authority, consisting of <sup>1</sup>[the Chairman and other] not less than five and not more than fifteen persons from amongst its members, appointed in such manner and for such period as that authority may determine :

Provided that, where an administrator by whatever name called is appointed for any municipal corporation or municipal council, he shall during the period of his appointment, act as the Tree Authority and exercise all the powers and perform all the duties of the Tree Authority.

(2) In the case of an urban local authority specified in column (1) of the table below the Chairman of its Tree Authority shall be the person specified against it in column (2) thereof.

Name of the urban local authority (1)	Chairman of its Tree Authority (2)
1. A Municipal Corporation	<sup>2</sup> [The Commissioner] of the Corporation.
2. A Municipal Council	The President of the Council.
3. A Special Planning Authority constituted under section 40(1)(a) of the Maharashtra Regional and Town Planning Act, 1966.	<sup>3</sup> [The Chief Executive Officer] of the Special Planning Authority. Mah. XXXVII of 1966.
4. A New Town Deveopement Authority constituted under section 113(2) of the Maharashtra Regional and Town Planning Act, 1966.	<sup>4</sup> [The Chief Executive Officer] of the New Town Development Authority. Mah. XXXVII of 1966.
5. A New Town Development Authority declared under section 113(3A) of the Maharashtra Regional and Town Planning Act, 1966 or a Special Planning Authority appointed under section 40(1)(b) of that Act.	The Managing Director of the Corporation or company declared to be the New Town Development Authority. Mah. XXXVII of 1966.

<sup>1</sup> These words were inserted by Mah. 7 of 1996, s. 5(a).

<sup>2</sup> These words were substituted for the words "The Mayor" by Mah. 7 of 1996, s. 5(b)(i).

<sup>3</sup> These words were substituted for the words "The Chairman" by Mah. 7 of 1996, s. 5(b)(ii).

<sup>4</sup> These words were substituted for the words "The Chairman" by Mah. 7 of 1996, s. 5(b)(iii).

1975 : Mah. XLIV]

Maharashtra (Urban Areas)Protection and  
Preservation of Trees Act, 1975

3

(3) Every Tree Authority may <sup>1</sup>[nominate] representatives of non-official organisations, who have special knowledge or practical experience in the field of planting and preservation of trees, as members of the Tree Authority, but the number of <sup>2</sup>[such nominated members shall not exceed the number of members appointed under sub-section (1)]. These members shall be <sup>3</sup>[nominated in such manner and for such period as may be prescribed].

(4) Any vacancy in the Tree Authority shall be filled as soon as may be by the authority competent to appoint the member in whose place fresh appointment is to be made.

<sup>4</sup>[Notwithstanding anything contained in sub-sections (1) and (2), where, in respect of the area of a Municipal Corporation or, as the case may be, a Municipal Council, the Tree Authority is not constituted or is not able to function for any reason whatsoever, the Municipal Commissioner of such Municipal Corporation or, the Chief Officer of such Municipal Council, shall act as the Tree Authority and shall exercise all the powers and discharge all the duties of a Tree Authority in such area, till such Authority is duly constituted or is able to function :

Provided that, every decision taken by the Municipal Commissioner or the Chief Officer under this section, shall be placed before the general body of such Municipal Corporation or, as the case may be, the Municipal Council, in its immediately next meeting held after such decision.]

4. <sup>5</sup>[(1) The Tree Authority shall meet at least once every month at such place and time as the Chairman may decide but, forty-five days shall not intervene between its two consecutive meetings.]

Meetings of  
Tree  
Authority.

(2) The quorum to constitute a meeting of the Tree Authority shall be one-third of the total number of its members including <sup>6</sup>[the nominated] members, if any.

(3) The <sup>7</sup>[nominated] member shall have the right to vote at a meeting of the Tree Authority.

(4) Save as otherwise provided by or under this Act, the rules of procedure for the meeting of the urban authority shall *mutatis mutandis* apply to the meetings of the Tree Authority.

## CHAPTER III

## OFFICERS AND SERVANTS

5. (1) As soon as may be after this Act is brought into force in any urban area, the urban local authority concerned shall, subject to sub-section (2), appoint one or more of its officers as Tree Officers for the purposes of this Act.

Appointment  
of Tree  
Officer.

(2) In Greater Bombay any officer to be appointed as Tree Officer shall not be below the rank of Ward Officer, and in other municipal corporation areas such officer shall not be below the rank of Assistant Municipal Commissioner. In every municipal area, the Chief Officer of the municipal council concerned shall be Tree Officer, and the Council may appoint one or more of its other officers as Tree Officers.

(3) Every Tree Officer shall exercise jurisdiction over the whole or such part of the urban area as <sup>8</sup>[the Tree Authority] may, from time to time, determine.

1 This word was substituted for the word "co-opt" by Mah. 7 of 1996, s. 5(c)(i).

2 These words, brackets and figure were substituted for the words "such co-opted members shall not exceed three" by Mah. 7 of 1996, s. 5(c)(ii).

3 These words were substituted for the words "co-opted in such manner and for such period as the Tree Authority may determine" by Mah. 7 of 1996, s. 5(c)(iii).

4 This sub section was added by Mah. 15 of 2015, s. 3.

1) was substituted, by Mah. 7 of 1996, s. 6(a).

6 These words were substituted for the words "co-opted" by Mah. 7 of 1996, s. 6(b).

7 This word was substituted for the word "co-opted" by Mah. 7 of 1996, s. 6(c).

8 These words were substituted for the words "the urban local authority" by Mah. 7 of 1996, s. 7.

4 *Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975* [1975 : Mah. XLIV

Appointment of other officers and servants. 6. (1) The urban local authority may, from time to time, appoint, such other officers and servants subordinate to the Tree Officer, as it considers necessary :

Provided that, where the urban local authority is a municipal council notwithstanding any restrictions on the appointment of staff contained in the \*Maharashtra Municipalities Act, 1965, the municipal council shall be competent to appoint the staff considered necessary by it for the purposes of this Act.

Mah. XL of 1965.

(2) The conditions of appointment and service and the powers and duties of such officers and servants shall be such as may be determined by the urban local authority.

#### CHAPTER IV

##### DUTIES OF TREE AUTHORITY

Duties of Tree Authority. 7. Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Tree Authority shall be responsible for—

(a) <sup>1</sup>[protection and preservation] of all trees in all lands within its jurisdiction;

(b) <sup>2</sup>[carrying out a census of the existing trees in all lands within its jurisdiction, <sup>3</sup>[once before December 1996 and thereafter once in every five years]];

(c) prescribing standards specifying the number and types of trees which each plot of land shall have and which shall be planted therein;

(d) development and maintenance of nurseries for the supply of seeds, sapplings and trees to persons who desire to plant new trees or to replace trees which have been felled with the previous permission of the Tree Officer <sup>4</sup>[or involuntarily uprooted];

(e) transplanting of trees necessitated by construction of new roads or widening or existing roads or for safeguarding danger to life or property;

<sup>5</sup>[(f) organisation of flower, fruit, vegetable, tree or plant shows <sup>6</sup>[at least once a year] and assisting private and public institutions in organising such shows, and creation of consciousness of importance of trees and vegetation to the human welfare];

(g) grant of advice and technical assistance to any person seeking such advice or assistance in any matter connected with <sup>7</sup>[planting, protection and preservation] of trees;

(h) planting and maintaining such number of trees as it considers necessary, according to the prescribed standards, <sup>8</sup>[along the roads.] in public parks and gardens and on banks of rivers or lakes or <sup>9</sup>[sea shores, on hills, open spaces or public places];

(i) undertaking any other schemes or measures for achieving the objects of this Act.

#### CHAPTER V

##### RESTRICTIONS ON FELLING OF TREES AND LIABILITY FOR PLANTING AND PRESERVATION OF TREES

Restrictions on felling of trees. 8. (1) On and after the date on which this Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within that urban area, except with the previous permission of the Tree Officer.

1 These words were substituted for the words "preservation" by Mah. 7 of 1996, s. 8(a).

2 Clause (b) was substituted for the original by Mah. 3 of 1977, s. 3(a).

3 These words and figures were substituted for the words "from time to time, as may be directed by the State Government" by Mah. 7 of 1996, s. 8(b).

4 These words were added, by Mah. 7 of 1996, s. 8(c).

5 Clause (f) was substituted for the original by Mah. 3 of 1977, s. 3(b).

6 These words were inserted by Mah. 7 of 1996, s. 8(d).

7 These words were substituted for the words "planting and preservation" by Mah. 7 of 1996, s. 8(e).

8 These words were substituted for the words "on roads" by Mah. 7 of 1996, s. 8(f).

9 These words were substituted for the words "sea shores" by Mah. 3 of 1977, s. 3(c).

\* See now, the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

1975 : Mah. XLIV]

*Maharashtra (Urban Areas) Protection and  
Preservation of Trees Act, 1975*

5

(2) If <sup>1</sup>[any person, including an officer of the urban local authority or an officer of the State Government or the Central Government, proposes] to fell a tree, he shall apply in writing to the <sup>2</sup>[Tree Authority] for permission in that behalf. The application shall be accompanied by <sup>3</sup>[the description of the tree and] a site plan, indicating the position of the tree required to be felled and the reasons therefor.

<sup>4</sup>[(3) (a) On receipt of such application, the Tree Authority shall cause the Tree Officer to personally inspect the tree and hold enquiry and submit a report to the Tree Authority within a period of thirty days from the date of receipt of such application. Adequate public notice shall be given by the Tree Officer by advertising in local newspapers as well as by affixing a notice on a conspicuous part of the tree that is required to be felled. Thereafter, the Tree Authority may give permission with or without conditions or refuse it, within a period of sixty days from the date of receipt of the application. However, no tree shall be felled until fifteen days after such permission is given :

Provided that, no such permission shall be refused if, in the opinion of the Tree Authority, the tree is dead, or diseased or wind-fallen, or it constitutes a danger to life or property, or obstructs traffic; and if any objection is received against such permission, the matter shall be placed before the Tree Authority for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.

(b) A report of permissions granted by the Tree Authority for felling trees shall be submitted at least once in six months to the concerned urban local authority in whose jurisdiction the Tree Authority is functioning.]

<sup>5</sup>[(4) If the Tree Authority fails to inform the applicant of its decision within sixty days, from the date of the receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.]

(5) Where permission to fell a tree is granted <sup>6</sup>[Tree Authority] may grant it subject to the condition that the applicant shall plant another tree of the same or other <sup>7</sup>[suitable local species] on the same site or other suitable place within thirty days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf.

9. (1) If, in the opinion of the Tree Officer, the number of trees in any land is not adequate according to the standards prescribed under paragraph (c) of section 7, the Tree Officer may, after giving a reasonable opportunity to the owner or occupier of the land of being heard, by order require him to plant such trees or additional trees and at such places in the land as may be specified in the order.

(2) When an order is made under sub-section (1), the owner or occupier of the land shall comply with the order within ninety days from the receipt thereof.

10. (1) Where any tree is fallen or destroyed by wind, fire, lightning or torrential rain, the Tree Officer may, *suo motu* or on information given to him, after holding such inquiry as he deems fit and giving a reasonable opportunity to the owner or occupier of the land where the tree existed, by order, require such owner or occupier <sup>8</sup>[to plant one or more trees of the local species] in place of the tree so fallen or destroyed of the same or <sup>9</sup>[other local species] at the same or other suitable place as may be specified in the order.

Power to require planting of adequate number of trees.

Power to require planting of a tree in place of fallen or destroyed tree.

1 These words were substituted for the words "any person wishes" by Mah. 7 of 1996, s. 9(a)(i).

2 These words were substituted for the words "Tree Officer" by Mah. 7 of 1996, s. 9(a) (ii).

3 These words were inserted by Mah. 7 of 1996, s. 9(a) (iii).

4 Sub-section (3) was substituted for the original by Mah. 7 of 1996, s. 9(b).

5 Sub-section (4) was substituted for the original by Mah. 7 of 1996, s. 9(c).

6 These words were substituted for the words "Tree Officer" by Mah. 7 of 1996, s. 9(d)(i).

7 These words were substituted for the words "suitable species" by Mah. 7 of 1996, s. 9(d)(ii).

8 These words were substituted for the words "to plant a tree" by Mah. 7 of 1996, s. 10(a).

9 These words were substituted for the words "other species" by Mah. 7 of 1996, s. 10(b).

(2) Where an order is made under sub-section (1), the owner or occupier of the land shall comply with the order within ninety days from the receipt thereof.

Responsibility for preservation of trees [and power to take deposit for proper compliance].

11. <sup>1</sup>[(1)] Where an order is made <sup>2</sup>\* \* \* under sections 8, 9 or 10 subject to the provisions of section 12, it shall be the duty of the owner or occupier of the land who is directed to plant a tree to see that the tree grows properly <sup>3</sup>[and is well preserved and shall give a report to the Tree Officer once in six months about the conditions of such tree or trees for a period of three years]. It shall also be the duty of such owner or occupier to preserve all other trees existing on the land on the date of coming into force of this Act in the urban area in which the land is situated.

<sup>4</sup>[(2) Where an order is made under sections 8, 9 or 10, the Tree Officer may require the owner or, as the case may be, the occupier, of the land to deposit with him such sum as he may specify in this behalf, as security for ensuring proper compliance with the order made <sup>5</sup>[under sections 8, 9 or 10]. The sum to be deposited shall not exceed such amount as may be prescribed.]

Adoption of trees.

12. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions as it may specify in that behalf, allow by a written permission any individual, body corporate or institution to adopt any tree for such period as may be specified in the permission, and during such period the said individual, body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

(2) Where any order is made <sup>7</sup>\* \* \* under sections 8, 9 and 10, in lieu of planting a new tree, the Tree Authority may by written permission allow the person concerned to adopt a tree specified by it and then the person shall be responsible for the maintenance and preservation of that tree for such period as may be specified <sup>8</sup>[by the Tree Authority] :

<sup>9</sup>[Provided that, the trees to be adopted shall be less than one year old and their number shall not be less than the number of trees, which the person concerned could have been required to plant under sub-section (5) of section 8, sub-section (1) of section 9 or sub-section (1) of section 10, as the case may be.]

<sup>15</sup>[Forfeiture of deposit and recovery] of expenditure on failure to comply with orders for planting trees.

13. Where the owner or occupier of any land fails to comply with any order made <sup>10</sup>[under sections 8, 9 or 10, the Tree Authority or the Tree Officers, as the case may be, may,] after giving a reasonable opportunity to such owner or occupier of being heard <sup>11</sup>[forfeit the deposit, in full or in part to the Tree Authority] and without prejudice to any other action which may be taken against the defaulter under this Act, take the necessary action <sup>12</sup>\* \* \* and recover the expenditure incurred therefor from the owner or the occupier, as the case may be. <sup>13</sup>[For the purpose of recovery of the amount of such expenditure, the Tree Authority <sup>14</sup>[or the Tree Officer] shall have the same powers as are available to the urban local authority for the purpose of recovery of arrears of a property tax or where such tax is not levied, for the purpose of recovery of arrears of betterment charges or other dues levied by the urban local authority under the relevant Act.]

1 Section 11 was renumbered as sub-section (1) by Mah. 3 of 1977, s. 5(1).

2 The words "by the Tree Officer" were deleted by Mah. 7 of 1996, s. 11(a) (i).

3 These words were substituted for the words "and is well preserved" by Mah. 7 of 1996, s. 11(a) (ii).

4 Sub-section (2) was added by Mah. 3 of 1977, s. 5(2).

5 These words and figures were substituted for the words "by him" by Mah. 7 of 1996, s. 11(b).

6 These words were inserted by Mah. 3 of 1977, s. 5(3).

7 The words "by the Tree Officer" were deleted by Mah. 7 of 1996, s. 12(a).

8 These words were substituted for the words "by the Tree Officer" by Mah. 7 of 1996, s. 12(b).

9 This proviso was added by Mah. 3 of 1977, s. 6.

10 These words and figures were substituted for the words and figures "by the Tree Officer under sections 8, 9 or 10, the Tree Officer may" by Mah. 7 of 1996, s. 13(a).

11 These words were inserted by Mah. 7 of 1996, s. 13(b).

12 The word "himself" was deleted by Mah. 7 of 1996, s. 13(c).

13 This portion was added by Mah. 3 of 1977, s. 7.

14 These words were inserted by Mah. 7 of 1996, s. 13(d).

15 These words were substituted for the words "Recovery" by Mah. 7 of 1996, s. 13(e).

1975 : Mah. XLIV]

*Maharashtra (Urban Areas) Protection and  
Preservation of Trees Act, 1975*

7

14. (1) Where any decision is given or order is made under section <sup>1</sup>\* \* \* 9 or Appeals. 10 by the Tree Officer, an appeal shall lie to the Tree Authority.

(2) The appeal shall be made within fifteen days from the date the decision is communicated to, or the order is received by, the owner or occupier of the land and shall be accompanied by a fee of Rs. 50.

(3) The Tree Authority shall, as far as possible, decide the appeal within sixty days from the date of its receipt, after giving a reasonable opportunity to the appellant of being heard. The decision of the Tree Authority shall be final, and shall not be questioned in any Court of Law :

Provided that, where an appeal is made in time, the period for compliance, specified in the order of the Tree Officer appealed against, shall be reckoned from the date on which the appeal is decided against the appellant and where the appeal is allowed, the fee of Rs. 50 paid with the appeal shall be refunded to the appellant.

### CHAPTER VI

#### FINANCE, BUDGET AND ACCOUNTS

15. Notwithstanding anything contained in the relevant law or any other law for the time being in force, the urban local authority shall create a separate fund to be called the Tree Authority Fund, to which shall be credited all moneys received by the Tree Authority including—

Fund of  
Tree  
Authority.

<sup>2</sup>[(a) a contribution by the urban local authority from its income from such taxes as may be prescribed or when such taxes are not levied by the Authority, from its income from the betterment charges, if any, levied by it under the relevant Act or from the income derived by it from the sale of plots made by it under the relevant Act. The rates of the contribution shall be such as may be specified by the State Government, from time to time, by a general or special order;]

(b) all moneys raised by levy of a cess under Chapter VII;

(c) any grants made by the State Government to the Tree Authority;

(d) any moneys received by the Tree Authority as donations from any individuals, or corporate bodies or institutions;

<sup>3</sup>[(e) any other money received under the Act :

Provided that, if the total receipts of the Tree Authority from all the sources specified above are less than one half per cent. of the total receipts of the urban local authority, then, the urban local authority shall credit the deficit to the Tree Authority Fund at the end of each financial year.]

16. Every Tree Authority shall, on or before the 31st day of October every year, prepare in such form as the urban local authority may prescribe, an annual budget estimate in respect of the ensuing financial year of the estimated income and expenditure of the Tree Authority and shall, notwithstanding anything contained in the relevant law, submit it to the urban local authority for approval and inclusion in the budget estimate of that authority.

Budget.

17. The procedure applicable under the relevant law for maintenance and audit of accounts of the urban local authority shall *mutatis mutandis* apply to the maintenance and audit of the accounts of every Tree Authority.

Accounts  
and audit.

<sup>1</sup> The figure "8" was deleted by Mah. 7 of 1996, s. 14.

<sup>2</sup> Clause (a) was substituted for the original by Mah. 3 of 1977, s. 8.

<sup>3</sup> Clause (e) was added by Mah. 7 of 1996, s. 15.

## CHAPTER VII

## TREE CESS

Levy and  
collection of  
Tree cess.

18. (1) Where under the relevant law an urban local authority is levying a property tax on buildings and lands, it shall be lawful for such authority, notwithstanding anything contained in the relevant law, upon a request by the Tree Authority, to levy, for the purposes of this Act, an additional tax to be called "the Tree Cess" on the buildings and lands, at such rate not exceeding one per cent. of the rateable value of the property as the said authority may determine.

<sup>1</sup>[(1A) Where under the relevant Act, an urban local authority is levying a property tax on buildings and lands on the Capital value thereof, the Trees Cess leviable under sub-section (1) shall be levied at such rate, not exceeding 0.5 per cent. of the capital value of such building and lands, as the State Government may, by notification in the *Official Gazette*, specify :

Provided that, the Tree Cess so levied under this section shall not exceed,—

- (i) in respect of buildings used for residential premises, two times, and
- (ii) in respect of buildings used for non-residential premises, three times,

the amount of Tree Cess leviable in respect thereof in the year immediately preceding such date of adoption of capital value as the basis for assessment of property tax :

Provided further that, for the period of five years commencing from the levy of capital value as the basis for assessment of property tax, the Tree Cess leviable in respect of residential building or tenements having carpet area of 46.45 Sq. metres (500 Sq. feet) or less, shall not exceed the amount of Tree Cess levied and payable in the year immediately preceding the year of such adoption of capital value as the basis.

*Explanation.*—For the purposes of this section, after the Urban local authority adopts the capital value as the basis for levy of property tax, the Tree Cess, in respect of any taxable building shall be revised after every five years and on each such revision, such amount of Tree Cess, shall not in any case exceed the forty per cent. of the amount of the Tree Cess levied and payable in the year immediately preceding the year of the revision].

<sup>2</sup>[(1B) No Tree Cess under sub-section (1) or (1A) shall be leviable in respect of the buildings and lands or parts thereof vesting in, or in the occupation of, any consul de carriers, whether called as a consul general, consul, vice-consul, consular agent, pro-consul or by any other name of a foreign State recognised as such by the Government of India, or of any members (not being citizens of India) of staff of such officials, and such buildings and lands or parts thereof which are used or intended to be used for any purpose other than for the purpose of profit.

(1C) In respect of the buildings and lands which are liable to be assessed for the first time on or after the 1st April 2010, it shall be lawful for the urban local authority to issue a provisional bill for the payment of Tree Cess, until the final capital value of such buildings and lands is determined under the relevant law, as if such buildings and lands are assessed as per the rateable value worked out on the basis of the prescribed letting rates by the urban local authority, in respect of the official year 2009-2010. On the determination of capital value thereof, the amount of such cess shall be determined under sub-section (1A) and accordingly it shall be lawful for the authority to issue the final bill in respect of the years for which the capital value is determined.]

(2) The procedure for levy and collection of the property tax prescribed under the relevant Act shall *mutatis mutandis* apply to the levy and collection of the cess imposed under <sup>3</sup>[sub-sections (1), (1A) or (1C), as the case may be.]

1 Sub-section (1A) was inserted by Mah. 10 of 2010, s. 114.

2 Sub-sections (1B) and (1C) were inserted by Mah. 6 of 2012, s. 11(a)

3 These words, brackets, figures and letters were substituted for the words, brackets, figures and letter "sub-section (1) or, as the case may be, under sub-section (1A)," by Mah. 6 of 2012, s. 11(b).

1975 : Mah. XLIV]

*Maharashtra (Urban Areas) Protection and  
Preservation of Trees Act, 1975*

9

**CHAPTER VIII**

MISCELLANEOUS

19. Notwithstanding anything contained in the relevant law or any other law for the time being in force,—

(a) any authority or officer of the urban local authority, who is empowered to give any permission for development of land, shall not give such permission, except with the approval of and subject to the conditions, if any, imposed by the Tree Officer in regard to the preservation or plantation of trees on such land;

(b) no completion or occupation certificate in respect of any building shall be issued under the relevant law unless the authority competent to issue such certificate is satisfied that the conditions subject to which permission for development of the land as aforesaid was given have been complied with.

20. The Tree Authority may, from time to time, give to the Tree Officer and other Officers and servants subordinate to him such general or special directions as it thinks fit as to the policy to be followed by them in the discharge of their functions and for carrying out effectively the purposes of this Act, and such officers and servants shall comply with such directions.

<sup>1</sup>[20A. The Tree Officer or any other officer of the urban local authority authorised by such authority in this behalf or any police officer may take such steps and use such force as may be reasonably necessary to prevent the felling or destruction of any tree or for the protection of any tree.

20B. (1) <sup>2</sup>[It] shall be lawful for the Tree Officer or any officer authorised by him or by the Tree Authority in this behalf, to enter, with such assistants as he may deem necessary, upon any public premises for the purposes of proper enforcement of this Act and for that purpose carry out such inspection and take such steps and use such force as may be expedient.

\* \* \* \* \*

21. <sup>4</sup>[(1)] Whoever fells any tree or causes any tree to be felled in contravention of the provisions <sup>5</sup>[of the Act] or without reasonable excuse fails to comply with any order issued or condition imposed <sup>6</sup>[by the Tree Officer or the Tree Authority or voluntarily obstructs any member of the Tree Authority or the Tree Officer or any officers and servants subordinate to him in the discharge of their functions under this Act, shall, on conviction, be punished with the fine of not less than one thousand rupees which may extend upto five thousand rupees for every offence and also with imprisonment for a term of not less than one week, which may extend upto one year :

<sup>1</sup> Sections 20A and 20B were inserted by Mah. 3 of 1977, s. 9.

<sup>2</sup> This word was substituted for the words "Subject to the provisions of sub-section (2), it" by Mah. 7 of 1996, s. 16(a).

<sup>3</sup> Sub-section (2) was deleted by Mah. 7 of 1996, s. 16(b).

<sup>4</sup> Section 21 was renumbered as sub-section (1) by Mah. 3 of 1977, s. 10(1).

<sup>5</sup> These words were substituted for the words and figure "of section 8" by Mah. 7 of 1996, s. 17(a)(i).

<sup>6</sup> This portion was substituted for the portion beginning with the words "by the Tree Officer or voluntarily obstructs" and ending with the words "to three months" by Mah. 7 of 1996, s. 17(a)(ii).

<sup>7</sup> These words were substituted for the word "Penalty" by Mah. 7 of 1996, s. 17(c).

10 *Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975* [1975 : Mah. XLIV

Provided that, nothing in this section shall apply to the felling of trees on or along the public roads undertaken by the Public Works Department of the State or Central Government.]

<sup>1</sup>[(2) The felling or causing of felling of each tree without the permission of the Tree Authority shall constitute a separate offence.]

Power to make rules. **22.** (1) The State Government may, subject to the condition of previous publication and by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

---

<sup>1</sup> Sub-section (2) was substituted for the original by Mah. 7 of 1996, s. 17(b).

REPORTABLE

IN THE SUPREME COURT OF INDIA

JURISDICTION ORIGINAL JURISDICTION

I.A. Nos.169030/2019 and 105674/2020

In

Writ Petition (C) No.202/1995

With

IA Nos.142873/2021, 142876/2021 and 144462/2021

In

I.A. No.105674/2020 in Writ Petition (C) No.202/1995

In Re: T.N. Godavarman Thirumulpad Petitioner(s)

VS.

Union of India & Ors

RESPONDENT(s)

O R D E R

NAGARATHNA J.

IA Nos.169030/2019 & 105674/2020 in Writ  
Petition (C) No.202/1995 With IA Nos.142873/2021,  
142876/2021 & 144462/2021 In I.A. No.105674/2020  
in Writ Petition (C) No.202/1995

Heard Sri Tushar Mehta, learned Solicitor  
General appearing for Union of India and Delhi  
Metro Rail Corporation Ltd; Sri Chirag M. Shroff,  
learned counsel appearing for the Government of

National Capital Territory of Delhi (for short, the 'GNCTD'), and Sri Rajiv Dutta, learned Senior Counsel appearing for the applicants and perused the material on record.

2. IA Nos.169029 and 169030 of 2019 have been filed by the applicant viz., Delhi Metro Rail Corporation Ltd. (for short, the 'DMRC').

3. By order dated 02.02.2021, IA No.169029 of 2019 for impleadment was allowed and the applicant - DMRC was impleaded as party respondent in the matter for the purpose of passing orders on IA No.169030 of 2019.

4. The following prayers are sought in IA No.169030 of 2019 :

(a) Refer the matter to the Central Empowered Committee appointed by this Hon'ble Court for detailed consideration and examination of the proposal of the applicant for construction of metro alignment, tunnels and metro station forming

part of 22.34 km Aerocity - Tughlakabad Metro Corridor, being proposed for construction for Phase-IV of the MRTS Project on South Central/morphological Ridge as enclosed in Annexure P-1.

- (b) Allow the Applicant for carrying out the aforesaid Alignment, Tunnelling/station/shaft construction activity, in the South Central/Morphological Ridge for construction of the tunnels and metro corridor forming part of 22.34 km Aerocity - Tughlakabad Metro Corridor being proposed for construction for Phase-IV of the MRTS Project, under the supervision of the Ridge Management Board.
- (c) Pass such further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

5. IA No.105674/2020 has been filed by the applicant-DMRC seeking the following prayers:

(i) Allow the instant application, by declaring (1) the 5.34 km stretch on Road No.26 between Vikaspuri to Peeragarhi; (2) 1288.973 sqm land at Najafgarh drain, (3) area admeasuring 16097.75 sqm land located at Mangolpuri, and (4) area admeasuring 55.78 sqm at Krishna Park are non-forest areas and there is no requirement for the applicant to obtain permission for diversion of these lands as Forest land under the Forest (Conservation) Act, 1980.

(ii) Permit the applicant to carry out the construction activities of Phase-IV of Delhi Mass Rapid Transit System Project on the locations referred to in prayer (i) above, without any

restrictions in the larger interest of the Project.

- (iii) Pass such other order as this Hon'ble Court may deem fit and proper in the facts and the circumstances of the case.

6. I.A. No.144462/2021 has been filed by the GNCTD seeking permission to file the additional documents in I.A. No.105674/2020. The said application contains:

- (i) Report of Deputy Conservator of Forest, West Forest Division, GNCTD, on DMRC proposal for construction of corridor from Janakpuri to Derawal Nagar, Delhi (Annexure A-1);
- (ii) Copy of submissions of GNCTD dated 24.02.2021 in the matter of DMRC and P.C. Prasad Vs. UOI (Annexure A-2);
- (iii) Minutes of Meeting of the Ridge Management Board (for short, the 'RMB') dated 05.03.2021 (Annexure A-3) in which Agenda Item No.8 is relevant

which is concerning the construction of metro line (Aerocity - Tughlakabad Corridor) of Delhi Mass Rapid Transit System (for short, the 'MRTS') Project Phase IV.

The RMB has noted that the DMRC has submitted the proposal for use of forest land for construction of metro line, stations and other operational requirement of Delhi MRTS Project Phase IV. The length of alignment falling under Southern Ridge, South Central Ridge and Morphological Ridge is 2.844 km, 1.491 km and 3.774 km respectively, giving further details of the exact location of the railway alignment in the forest land of the Ridges referred to above. It is also noted that 1109 trees are proposed to be felled in certain parts of the Southern Ridge, South Central Ridge and Morphological Ridge. Since the

Central Empowered Committee (for the sake of convenience hereinafter referred to as the 'CEC') is visiting the entire railway alignment, the consideration of the matter was deferred.

- (iv) Submissions of GNCTD dated 29.05.2021 through the Department of Forest & Wildlife, GNCTD and in the matter of DMRC is at Annexure A-4.
- (v) The reply of GNCTD dated 29.05.2021 to the CEC is at Annexure A-5 in IA No.144462/2021.
- (vi) The affidavit of the Conservator of Forest, GNCTD, dated 15.09.1997 filed before this Court is at Annexure A-6. The said affidavit is accompanied by nine annexures giving the details of protected forest, forest land and plantation areas under the management of Department of Forest, GNCTD.

7. I.A. Nos.142873/2021 and 142876/2021 have been filed by the applicants in I.A. No.105674/2020 who have prayed for intervention/impleadment as party respondents and have also sought appropriate directions for accepting and allowing the bona fide objections filed by the applicants and for rejecting Report No.8 of 2021 dated 13.05.2021 filed by the CEC in terms of the order dated 02.02.2021 passed by this Court in IA No.105674/2020 along with other directions sought in the prayer of the instant IA No.142876/2021.

8. In IA No.142876/2021, the applicants viz., Dr. PC Prasad and Aditya N. Prasad have filed their objections to Report No.8 of 2021 dated 13.05.2021 in IA No.105674/2020 and contended that the aforesaid application(s) filed by the DMRC is not maintainable as this Court cannot grant a declaration that certain areas are non-forest areas in the National Capital Territory of Delhi (for short, the 'NCT of Delhi'). It is averred that DMRC ought to have approached the

Regional Office of the Ministry of Environment, Forest & Climate Change (for short, the 'MoEF&CC'), Government of India (for short, 'GoI'), as per the Guidelines laid down by this Court in *Lafarge Umiam Mining Corporation Vs. Union of India & Ors. - (2011) 7 SCC 338*; that DMRC has directly approached this Court seeking a declaration without first approaching the MoEF&CC, GoI; that in fact, DMRC has already addressed letter dated 25.08.2020 to the Deputy Conservator of Forest (West Forest Division), GNCTD, informing that it is in the process of applying for permission to use various land for the purpose of project as per FC Act, 1980; that DMRC has undertaken that in case diversion of forest land is denied it would realign through the alternative route. A copy of the said letter is produced as Annexure-17 in IA No.105674/2020.

9. Objections have also been raised to the CEC Report No.8/2021 filed in IA No.105674/2020 by the aforesaid applicants in IA No.142876/2021 which are summarized as under :

- (i) That none of their submissions raised before the CEC has been recorded nor referred to in the said Report.
- (ii) The Chief Wildlife Warden and the concerned Tree Officer(s) were not invited for the hearing nor have comments been sought from the said officers by the CEC.
- (iii) It is stated that majority of the areas where DMRC is proposing to construct have been identified as 'deemed forest' areas in the affidavit dated 15.09.1997 submitted by the Conservator of Forest, GNCTD, before this Court in this very matter.
- (iv) The metro line cannot be allowed to be constructed bypassing the requirement of obtaining forest clearance under the Forest (Conservation) Act, 1980 (for short, the 'FC Act, 1980').
- (v) DMRC has to follow the statutory scheme of the FC Act, 1980 before any forest land is diverted for non-forest use. The statutory

scheme under the said Act has been highlighted as under :

- (a) The officers of the Forest Department have to fill out the form under section 2 of the FC Act, 1980 providing details of the project sought to be constructed on forest land, a cost-benefit analysis as well as alternatives examined with detailed recommendations accepting or rejecting the proposal.
- (b) Then the proposal has to be placed before the Regional Empowered Committee which looks at all linear projects including the metro in the present case;
- (c) The Regional Empowered Committee has to recommend the project and grant Stage I approval (in-principle approval).
- (d) Thereafter, as per the decision of the National Green Tribunal in Milind Pariwakam & Anr. Vs. Union of India, Original Application No.52 of 2015 (order dated 13.03.2015), an order of

the State Government under section 2 of the FC Act, 1980 has to be passed after the State I clearance, before any non-forest activity can be carried out on forest land.

- (e) The National Green Tribunal in Vimal Bhai Vs. Union of India, Appeal No.7 of 2012 (order dated 07.11.2012) has held that the order under section 2 is appealable under section 16(e) of the National Green Tribunal Act, 2010 and no party can be left remediless which is why the State Government order under section 2 is a pre-requisite before any action is taken.
- (f) Para 1.14 of the Guidelines issued under the Forest (Conservation) Rules, 2003 (for short, the 'FC Rules, 2003') states that where projects involve both forest and non-forest lands, works should not be started on non-forest land till approval of the Central Government for

release of forest land under the Act has been obtained unless and to the extent permitted by the Rules or guidelines issued thereunder.

- (vi) It is also stated that the construction of Phase IV of MRTS project cannot be permitted unless a critical study is carried out under the Delhi Preservation of Trees Act, 1994 (for short, the 'DPT Act, 1994') before felling of trees.
- (vii) The CEC has ignored in its report that 'Najafgarh drain basin' in New Delhi has been identified as a critically polluted area by Central Pollution Control Board (CPCB) in the Comprehensive Environment Pollution Index (CEPI) Report, 2009.
- (viii) It is also stated that ambient air quality in respect of noise has also to be taken into consideration.
- (ix) The objections in the aforesaid interlocutory application also state that the provisions of the Wildlife Protection

Act, 1972 to be considered if trees are proposed to be felled and the threat to the eco system in the context of the wildlife prevalent in the particular eco system.

- (x) It is also stated that the Deputy Conservator of Forest (West Forest Division), GNCTD, by its order dated 28.02.2020 and letter dated 11.08.2020, has restrained DMRC from carrying out any construction activity on the 5.34 km on Road No.26 between Vikaspuri to Peeragarhi and Najafgarh drain as the DMRC illegally felled trees and barricaded the area for construction activity relating to Janakpuri West to R.K. Ashram corridor.
- (xi) The objections have also averred about the economic value of the trees.

10. By order dated 02.02.2021, this Court had directed copies of the instant applications including the amended application to be served upon the CEC and directed the CEC to file its reports in the matter.

11. The CEC has submitted Report No.8 of 2021 in IA No.105674 of 2020 and Report No.10 with Corrigendum dated 09.09.2021 in IA No.169030 of 2019 in WP(C) No.202 of 1995. The said reports have been taken on record.

12. According to DMRC, which is a government company incorporated under the Companies Act, 1956 and which is engaged in Delhi MRTS Project to provide a pollution free transport system to the people of the NCT of Delhi/National Capital Region(for short, the 'NCR'), it has sought the aforesaid prayers with regard to a declaration that

- (i) 5.34 km stretch on Road No.26 between Vikaspuri to Peeragarhi;
- (ii) 1288.973 sqm land at Najafgarh drain;
- (iii) area admeasuring 16097.75 sqm land located at Mangolpuri; and
- (iv) area admeasuring 55.78 sqm at Krishna Park

are non-forest areas and hence, the requirement to obtain permission for diversion of these lands

as forest land under the FC Act, 1980 would not arise.

13. As a sequel, permission has been sought by the applicant-DMRC to carry out the construction activities of Phase-IV of MRTS Project on the aforesaid locations without any restrictions as such.

14. In IA No.105674/2020, according to the applicant-DMRC, 61.679 Km of Phase IV of MRTS Project has been proposed, which, inter alia, includes the following construction proposed to be undertaken :

- (i) 20.201 km Metro corridor from Aerocity to Tughlakabad,
- (ii) 28.920 km corridor from Janakpuri West to R.K. Ashram, and
- (iii) 12.558 km metro corridor from Mukundpur to Maujpur.

15. The total cost of Phase-IV of MRTS Project is estimated to the tune of Rs. 24948.65 crores.

16. This Court vide its order dated 06.09.2019 in WP(C) No.13029 of 1985, observed that the parties have to ensure that there would be no delay caused in Phase IV of the Project and that the requisite amount has to be released in a timely manner to the acquiring authority. The commencement of Phase IV of MRTS Project by construction of civil works was made in November, 2019 and the said project is to be completed and commissioned by June, 2024.

17. The application being IA No.105674/2020 contains the following steps that have been taken so far which are encapsulated as under:

- (i) The Detailed Project Report (DPR) of 103.93 km long Phase -IV MRTS Project was submitted to the Union Government and the GNCTD. The project report was reviewed in terms of the New Metro Policy, 2017 and the alignment was thereafter finalized in April, 2018.

- (ii) It appears that in the period from 2018 to 2020, the DMRC carried out tree survey and applied for permission for cutting trees before the concerned department of Forest and Wildlife, GNCTD.
- (iii) The concerned Public Works Department (PWD) has granted a No Objection Certificate (NOC) for carrying out the construction activity on the Right of Way (ROW) in the year 2019.
- (iv) Similarly, permission has been obtained from the Police Department for diversion of traffic between Janakpuri and Mukarba Chowk and NOC from Irrigation and Flood Control Department have also been taken.
- (v) A contract has also been awarded for construction of elevated viaduct at the pertinent places and for 10 elevated stations on Janakpuri West-R.K. Ashram corridor.
- (vi) From December, 2019 to August, 2020, the officials of the Forest Department and DMRC

have conducted various joint site visits regarding permission for felling of trees falling within the area of Metro alignment. But no exact demarcation of forest areas has been made.

(vii) The Deputy Chief Conservator, Forest & Wildlife Department, GNCTD vide his letter dated 28.02.2020, restrained the DMRC from carrying out any construction activity at Najafgarh drain till necessary approval was issued by the concerned authorities.

(viii) By another letter dated 02.07.2020 issued by the Forest Department, the site near the railway line adjacent to Mangolpuri Industrial Area was stated to fall under the category of "Deemed Forest" as per the Affidavit dated 15.09.1997 filed in this case before this Court by GNCTD. Therefore, the DMRC was requested to approach the Central Government for grant of permission for diversion of forest land under the FC Act, 1980.

- (ix) The Forest & Wildlife Department, GNTCD in its letter dated 07.07.2020, stated that one patch of Line 8 from Janakpuri (West) to Mukarba Chowk falls within the category of "Deemed Forest" and therefore, approval had to be taken from the Central Government for diversion of forest land.
- (x) On 05.08.2020, the Forest & Wildlife Department, GNCTD, directed the DMRC and PWD officials to attend a joint site visit on 10.08.2020 for ascertaining the exact location of 5.34 km area on Road No.26 between Keshorpur to Mukarba Chowk, as Road No.26 was mentioned as Forest/Planation Area in the affidavit dated 15.09.1997 filed before this Court in the main writ petition.
- (xi) As the exact location of the forest area could not be ascertained in the joint site visit, the Forest & Wildlife Department, GNCTD, requested the applicant - DMRC to approach the PWD to mark the area as forest

area in terms of the affidavit dated 15.09.1997 filed before this Court.

(xii) The Forest & Wildlife Department, GNCTD, also stated that the Najafgarh drain is marked as a plantation area as per Geospatial Delhi Ltd. (GSDL) Map and hence, no construction activity has been carried out on the said area.

(xiii) Thereafter, on 14.09.2020, the Forest & Wildlife Department, GNCTD, permitted construction activity in the non-forest area subject to seeking approval of the competent authority vis-à-vis the trees in the said non-forest area.

18. In the above circumstances, the present application has been filed by the DMRC before this Court seeking permission to carry out construction activities of Metro Rail on the following stretches/locations:

(a) A stretch of 2.99 km, falling on Road No.26 between Keshopur to Mukarba Chowk being part of 28.920 km extension of

Line-8 of MRTS Project; from Janakpuri West to R.K. Ashram of Phase IV Metro Project being constructed by the Applicant, which area forms part of Road No.26 (5.34km) classified as Forest Area/Plantation area by the Forest & Wildlife Department, GNCTD, in the above noted Affidavit dated 15.09.1997.

- (b) An area admeasuring 1288.973 sqm at Najafgarh drain, classified as Forest Area/Plantation Area, by the Forest & Wildlife Department, GNCTD, under Irrigation & Flood Control Department.
- (c) An area admeasuring 16097.75 sqm at Mangolpuri for construction of Mangolpuri Metro Station, classified as Forest Area by the Forest & Wildlife Department, GNCTD, on the basis of availability of 100 trees per acre in an area above 2.5 acres.
- (d) An area admeasuring 55.78 sqm; 36.475 mt of which forms part of Road No. 26

(5.34km) at Krishna Park for construction of Entry/Exit of underground station at Krishna Park of the Metro corridor/project.

19. Several averments have been made in the aforesaid application to contend that the aforesaid areas in respect of which the permission is sought, for carrying out the construction activity of Phase IV Metro Rail, are not forest areas and permissions/approvals are not required. They are summarized as under:

- (i) The project involves a huge capital expenditure and stoppage of construction activities and consequent delay in completion of the project would involve heavy financial implications owing to cost escalation, which would have a cascading effect on public exchequer.
- (ii) The DMRC has undertaken the proposed project with a view to providing the citizen of NCT of Delhi/NCR a viable

public transport option so as to reduce vehicular congestion on the road and consequently, reduce pollution in the NCT of Delhi/NCR.

- (iii) The operation of Metro project has resulted in several advantages to the public at large.
- (iv) There would be a greater advantage to the public at large and essentially in the form of saving travel time and reducing the degree of pollution in the NCT of Delhi/NCR.
- (v) Any delay in the commissioning of the project, on the other hand, would jeopardise the object and purpose of DMRC to provide efficient transport facility to the citizens.
- (vi) Hence, in IA No.105674 of 2020, the DMRC has sought a declaration that -
  - (a) the 5.34 km stretch on Road No.26 between Vikaspuri to Peeragarhi;

(b) 1288.973 sqm land at Najafgarh drain;

(c) area admeasuring 16097.75 sqm land located at Mangolpuri; and

(d) area admeasuring 55.78 sqm at Krishna Park

are non-forest areas and there is no requirement for the applicant to obtain permission for diversion of these lands as Forest land under the FC Act, 1980.

20. Pursuant to the order of this Court dated 02.02.2021, the CEC has submitted its Report No.8 of 2021 dated 13.05.2021 in IA No.105674 of 2020. The relevant portions of the said report read as under:

"17. Since this IA No. 105674 of 2020 filed by DMRC Limited mainly relates to the question of applicability of the Forest (Conservation) Act, 1980 to road side planted trees specific to the Metro corridor between Janakpuri West to R. K. Ashram and the issue raised in the W.P.(C) No.1774 of 2021 before the High Court of Delhi and before the CEC by the same petitioners mainly relates to proposed felling of 11,545

trees for implementation of the entire Phase IV of the Metro project, the CEC will submit a detailed report in the matter separately and along with the Report in IA No.91869 of 2020 filed by the DMRC Ltd relating to the Metro Corridor between Aerocity and Tughlakabad.

18. The felling of planted trees outside the forest are regulated under the provision of the Delhi Prevention of Trees Act, 1994 (DPT Act, 1994). The definition of a 'tree' under DPT Act, 1994 is as follows:

"tree means any woody plant whose branches spring from and are supported upon a trunk or body is not less than five centimetre at a height of thirty centimetres from the ground level and is not less than one meter in height from the ground level."

Thus all plants of and above one meter in height are treated as trees under this Act.

The DPT Act, 1994 also prescribes planting of a minimum of 10 times the number of trees for every tree felled. The Applicant is therefore required to obtain the requisite permission under the DPT Act, 1994.

19. Keeping in view the above discussions CEC is of the considered view that the PWD land along Road No.26 on which the planted trees are seen are neither notified as 'forest' nor recorded in any government records as 'forest'. These trees not being of natural origin cannot be branded as 'forest' for the purpose of Forest (Conservation) Act, 1980. It is therefore recommended for consideration of this Hon'ble Court that the prayer of the

Applicant to declare that the 5.34 km stretch of Road No.26 between Vikaspuri to Peeragarhi, 1288.973 sqm land at Najafgarh drain, 16097.75 sqm land located at Mangolpuri and 55.78 sqm of Krishna Park are non-forest areas is allowed, subject to the condition that the Delhi Metro Corporation Limited will fell the trees only after obtaining permission under Delhi Preservation of Trees Act, 1994 from the concerned authorities and after complying with the conditions associated with such approvals including compensatory planting of 10 times the number of trees close to the site from where the trees are being felled."

21. Report No.10 of 2021 in IA No.169030 of 2019 wherein the aforesaid prayers have been extracted, pertains to the construction of Metro alignment, tunnels and Metro stations located on Southern Ridge, South-Central Ridge and Morphological Ridge falling along the 23.62 km long metro corridor between Aerocity and Tughlakabad Station in Delhi. With regard to the extent and importance of Delhi Ridge Area/Morphological Ridge Area and order of this Court in this regard, the following has been observed in the said report:

"19. i) The Master Plan for Delhi Perspective, 2001, notified by the Delhi Development Authority (DDA) on 1st August, 1990, states that the Ridge in Delhi is defined as rocky out-crop of Aravalli Ranges stretching from the University in the North of Union Territory boundary to the South and beyond. *The Delhi Ridge area extends over 7,777 ha out of which 87 ha falls in Northern Ridge, 864 ha falls in Central Ridge, and 6200 ha falls in South Central Ridge and 6200 ha falls in Southern Ridge.* The ridge area has been classified and included in the Master Plan (Land use Plan) as Regional Park.

ii) The Government of National Capital Territory of Delhi by notification dated 24th May, 1994 under Section 4 of the Indian Forest Act, 1927 notified the 7,777 ha of Delhi Ridge area as Reserved Forests commonly referred to as Notified Ridge Area. The Delhi Ridge serves as the green lungs for Delhi and acts as a buffer against rising pollution levels. The pressures of rapid urbanization in Delhi have, over the years, threatened and adversely affected the forests in Delhi Ridge area. The Ridge area thus identified needs to be conserved with utmost care and should be afforested with the indigenous species with minimum of artificial landscape.

iii) This Hon'ble Court has passed a series of directions in Writ Petition (Civil) No. 4677 of 1985 for conservation and protection of Delhi Ridge. Pursuant to this Hon'ble Court order dated 29th September, 1995 the Government of NCT of Delhi by order dated 5th October, 1995 constituted the Ridge Management Board (RMB) under the Chairmanship of Chief Secretary,

Delhi. The Board has been assigned various functions, relating to conservation and protection of Ridge. These include execution of the management scheme for the Ridge Forests, protection of boundaries, of the Ridge and preparation and execution of detailed plans for up gradation of the Ridge.

iv) *This Hon'ble Court by order dated 10th October, 1995 directed that the Ridge Management Board shall ensure that the Ridge is not occupied or encroached by any person for any unauthorised purpose. This Hon'ble Court further directed the Chairman RMB to file an affidavit by a responsible officer after every eight weeks, indicating the progress made in preserving the status of the Ridge as a forest and also keeping it free from encroachers.*

v) This Hon'ble Court, by order dated 25.01.1996 and 13.03.1996 in IA No.18 and IA No.22 in Writ Petition (C) 4677 of 1985 directed that the uncultivated surplus land of Gaon Sabha falling in the Ridge area may be excluded from vesting in Gaon Sabha u/s 154 of the Delhi Land Reforms Act, 1954 and made available for the purpose of Reserved Forest.

vi) The Government of NCT of Delhi in compliance of the above said orders of this Hon'ble Court issued Notification dated 2nd April, 1996 u/s 154 of the Delhi Land Reform Act, 1954 declaring 10,517 acres (about 4,206.68 ha) of uncultivated land of Gaon Sabha situated in Southern Ridge as surplus land and excluded the same for vesting in Gaon Sabha. Further by Notification dated 2nd April, 1996 placed the said 4206.68 ha land at the disposal of the

Forest Department of Delhi Government and this 4206.68 ha of land stands included in the 7777 ha of Notified Ridge Area.

vii) *This Hon'ble Court by order dated 9th May, 1996 directed that the Ridge is to be kept free from encroachers and its pristine glory must be maintained for all times.*

viii) The Geological Survey of India (GSI) in the year 2001-02 carried out geological and geomorphological mapping of about 1482 sq km area of NCT of Delhi on 1: 10,000 scale with a view to provide the base map for seismic microzonation of Delhi and which map was published in the year 2006. *In the geological and geomorphological map prepared by the GSI the land forms found to be under rocky surface have been included and shown under the geomorphic unit "residual hills I Ridges".* It is relevant to mention that all the areas identified as Residual Hills I Ridges in the geological and geomorphological mapping done by the GSI are not included and shown as Ridge areas in the MPD 2001 and MPD 2021. For example, the areas between Tughlakabad to Okhla via Greater Kailash and Nehru Place have been identified as Ridge areas in the said Report of GSI but are not included as Ridge areas in the MPD 2001 and MPD 2021.

ix) Initially, the clearance from the Ridge Management Board and the permission of this Hon'ble Court was being insisted upon only in respect of the Notified Ridge Areas. This Hon'ble Court by order dated 23.03.2007 has granted permission to the Delhi Metro Rail Corporation Limited for use of forest land and non-forest land

falling in the Delhi Ridge area for the construction of the Central Secretariat -Qutab Minar -Gurgaon corridor of the metro line and by order dated 07.12.2007 has granted permission for use of forest land and non-forest land for construction of Express Metro Link to the Airport through the Central Ridge.

x) Subsequently by order dated 03.11.2011 the Hon'ble High Court of Delhi in Writ Petition (Civil) No.3339 of 2011, filed by Shri Ashok Kumar Tanwar, held that lands situated outside the Notified Ridge Areas but which have morphological features conforming to the ridge should be given the same protection as is given to the notified areas. Consequently, all the concerned agencies were restrained from carrying out construction works on such lands (Morphological Ridge) also referred to as "Extended Ridge Area" till necessary clearance from the Ridge Management Board and through the CEC the permission of this Hon'ble Court is first obtained.

20. *This Hon'ble Court by orders issued from time to time, since 02.11.2012 and till 06.09.2019, has given permission to various agencies of Central Government and Delhi Government for carrying out construction activities in notified Ridge area on forest land and non-forest land situated outside the notified Ridge Area in extended Ridge Area Morphological Ridge Area. These include the Border Roads Organization, the Delhi Metro Rail Corporation Limited, Jawaharlal Nehru University, Central Bureau of Investigation, Ministry of Defence, Ministry of External Affairs, Ministry of*

*Textiles, South Delhi Municipal Corporation, Delhi Development Authority, Central Public Works Department, National Highways Authority of India (NHAI} and the Delhi Police."*

22. The observations and recommendations are given in paragraph 21 of Report No.10 of 2021 in IA No.169030 of 2019 which read as under:

"OBSERVATIONS AND RECOMMENDATIONS

21. After considering that

i) the project is in public interest;

ii) it is proposed to construct the 23.62 km long Aerocity to Tughlakabad corridor Mass Rapid Transport System forming part of Phase IV Project in Delhi at an estimated cost of Rs. 8230 crores and scheduled to be commissioned by year 2024;

iii) the metro corridor will serve the densely populated areas and is integrated with

a) Airport Express Line which provides metro connectivity of South Delhi to Indira Gandhi International Airport;

b) Samaypur Badli to HUDA City Centre (Yellow Line) at existing Chhatarpur Metro Station which integrates the metro connectivity of South Delhi to Gurgaon and Faridabad;

iv) the vehicular traffic of IG Airport from Delhi will be drastically reduced with consequent reduction in traffic on NH-8, Mahipalpur - Mehrauli Road, Mehrauli - Badarpur Road apart from the Metro Project providing the connectivity to Line-6 at Tughlakabad for commuters of Faridabad;

v) the total Ridge Area involved including Morphological Ridge is 12.97 ha extending over a length of 5.29 kms. Out of this 12.97 ha an area of 4.5 ha will be for tunnels 20 m below the ground while the remaining 8.4 ha is required for constructing Metro Stations;

vi) since tunnel boring machines will be used surface breaking is limited to 8.4 ha. required for constructing metro stations and therefore there will be minimal impact to the ecology or structure on Ridge I Morphological Ridge;

vii) the land required on permanent and temporary basis has been restricted to 14865 sqm and 69793 sqm respectively with minimal impact. The 69793 sqm land, held on temporary basis, shall be restored back after the completion of the Project;

viii) it is not possible to align the corridor outside the ridge area;

ix) the total number of trees involved is 6961 trees break up being 1072 trees located in 12.97 ha over a length of 5.29 km in Ridge Area including Morphological Ridge, 2536 trees located in 3.79 ha identified as deemed forest over a length of 0.97 kms and 3353 trees located on 27.06 Ha non-forest land over a length of 17.35 km. A total of 2195 trees out of 6961

trees are to be transplanted while the remaining 4766 trees are to be felled;

x) the compensatory planting will involve about 34,000 saplings {ten times 3353 trees to be felled/transplanted) and will be located on land made available by DDA while transplantation of 2195 trees will be undertaken on open lands of DDA, Ministry of Defence and multiple land owing agencies in the vicinity of the Project;

xi) the corridor proposed has been found to be the most feasible route economically, environmentally and technically for the purpose of daily ridership and will be covering a sizeable population;

xii) the Ridge Management Board has recommended the proposal;

xiii) no viable alternative is feasible and the use of the ridge area has been restricted to the minimum; and

xiv) this Hon'ble Court by orders issued from time to time has for site specific projects given permission to various Central Government agencies and Delhi Government for carrying out construction activities on forest land, deemed forests and non-forest land situated

a) in the Notified Ridge Area

b) outside the Notified Ridge Area but located in extended Ridge area/ Morphological Ridge area which have morphological features.

It is recommended that this Hon'ble Court may consider permitting use of 7.42 Ha. Ridge area including Morphological Ridge and 3.79 Ha of deemed forest land involving 6961 trees (break up being felling of 4766 trees and transplantation of about 2195 trees) for construction of metro alignment tunnels and metro stations in the Southern Ridge, South Central Ridge and Morphological Ridge along the 23.62 km Aerocity -Tughlakabad Metro Corridor forming part of Phase IV of the Mass Rapid Transport System (MRTS) Project subject to the following conditions :

a) The Applicant Delhi Metro Rail Corporation Limited will deposit 5% of the Project cost proportionate to the area falling within the Southern Ridge, South Central Ridge and Morphological Ridge, with the Ridge Management Board Fund and which amount, under the close supervision of the Ridge Management Board, will be used by the Forest Department of Delhi Government for conservation and protection of the Delhi Ridge.

b) The Applicant will obtain the statutory forest clearance for diversion of 7.42 Ha. forest land falling in Southern Ridge, South Central Ridge and 3.79 Ha of deemed forest for non-forest use in accordance with the provisions of the Forest (Conservation) Act, 1980 from the competent authority and shall comply with all the conditions that are laid down in the order to be passed for diversion of forest land.

c) The 25 Ha of land allotted by DDA for compensatory afforestation

in Dhusiras Village, Dwarka shall be notified as protected forests under the provisions of the Indian Forest Act 1927 and shall be managed by the Forest Department of Delhi Government.

d) The area falling within the Delhi Ridge area I Morphological Ridge area will not be used for commercial purposes by the Applicant or any other party.

e) The Applicant shall pay Net Present Value as assessed by the Forest Department, Delhi Government.

f) The applicant shall obtain necessary approvals under the Delhi Preservation of Trees Act, 1994 from the competent authority before felling of trees standing on non-forest land.

g) Compensatory plantation of 34,000 saplings of indigenous species, being ten times in lieu of 3353 trees standing on non-forest land and proposed to be felled/transplanted, will be undertaken by the Forest Department of Delhi Government on the lands provided by ODA for the said purpose.

h) The cost of raising 34,000 saplings and raising compensatory afforestation in lieu of the diversion for forest land for non-forest use. will be deposited in advance by the Applicant with the Forest Department of Delhi Government who will undertake the planting and maintenance of the above trees for seven years.

i) Transplantation of 2195 trees will be undertaken by DMRC on open identified lands made available by DOA, Ministry of Defence and other multi land owing agencies including private trusts.

j) The transplantation of trees will be undertaken near the impact area itself.

k) The felling of trees proposed is limited to the bare minimum required for execution of the project.

*Note : By corrigendum dated 09.09.2021 to Report No.10 of 2021 in IA No.169030/2019, the figure 12.98 Ha forest land to be read as 7.42 Ha of forest land.*

23. The justification for Aerocity - Tughlakabad Corridor Project is stated in paragraph 17 of the aforesaid Report i.e. Report No.10 of 2021 as under:

"JUSTIFICATION FOR AEROCITY - TUGHLAKABAD CORRIDOR PROJECT"

17. i) According to DMRC the proposed metro Corridor is to serve the densely populated areas of Mahipalpur, Vasant Kunj, Chhatarpur, IGNOU, Maidangarhi, Neb Sarai, Saket, Khanpur, Sangam Vihar and Tughlakabad. The alignment is based on the proximity to the populated areas to be served and which areas are mostly along the Mahipalpur - Mehrauli Road and Mehrauli ~ Badarpur Road. There have been and

there still are many constraints while finalizing the alignment such as minimum distance from the Protected Monuments avoiding built up areas and at the same time also minimizing the Ridge area as there are large extent of Ridge areas along the corridor. The present alignment is the best fit alignment meeting the above constraints and also simultaneously meets the technical requirements of metro alignments/stations and proximity to the target population to be served. There is a vast extent of Ridge on either side of the alignment because of which it has not been possible to shift the alignment out of Ridge area but efforts have been made to minimize the Ridge area involved. The daily ridership has been estimated at 1.66 lakhs trips per day by 2024.

ii) The proposed Aerocity - Tughlakabad corridor is to be integrated with Airport Express Line which provides metro connectivity of South Delhi to Indira Gandhi International Airport. It is also to be integrated with Samaypur Badli to HUDA City Centre Line (Yellow Line) at existing Chhatarpur Metro Station which integrates the metro connectivity of South Delhi to Gurgaon and Faridabad.

iii) This corridor provides connectivity to Chhatarpur Mandir, IGNOU University, Karni Singh Shooting Range and ASI Monuments including Tughlakabad Fort, Adilabad Fort and Ghyasuddin Tughlakabad Tomb.

iv) The vehicular traffic of IGI Airport from Delhi will get drastically reduced with consequent reduction in traffic on N-H-8,

Mahipalpur - Mehrauli Road, Mehrauli Badarpur Road apart from the Metro Project providing the connectivity to Line - 6 at Tughlakabad for commuters of Faridabad.

v) The reduction in vehicular traffic will also bring down the number of road accidents and pollution levels.

vi) Public interest is involved in the completion of Aerocity to Tughlakabad corridor as this corridor is the most feasible route economically, environmentally and technically for the purpose of the daily ridership and also will be covering a sizeable population.

24. It is noted in the aforesaid Report that the RMB in its meeting held on 14.07.2021 is said to have stated that the original alignment proposed by DMRC involving minimum use of forest area (12.97 Ha) and minimum felling of trees (1072 trees) has recommended the proposal subject to the following conditions:

(a) The User Agency shall obtain necessary permission for diversion of forest area for non-forestry purposes as per provisions under FC Act, 1980.

(b) The User Agency shall deposit 5% of the project cost proportionate to the area

falling within Morphological Ridge area to RMB fund on the lines of conditions imposed by Hon'ble Supreme Court of India in Writ Petition (Civil) 202 of 1995 titled "T.N. Godavarman Thirumulpad Vs Union of India and Ors." for management of the Ridge.

25. As already noted, we have heard learned Senior Counsel and counsel appearing for the respective parties at length and perused the earlier orders of this Court and the aforesaid reports submitted by the CEC, the relevant portions of which are extracted above.

26. We have given our anxious consideration to the prayers sought by the applicant - DMRC in these applications.

27. At the outset, we may preface our discussion by observing that learned counsel appearing for the respective parties submitted at the Bar that in principle, their parties are not opposed to Phase IV of MRTS Project. The main consideration is making available transport facility to the

public at large in NCR of Delhi in the form of Metro rail while at the same time, preserving the ecology and environment of the areas surrounding the alignment of the metro railway.

28. To put it in a nutshell, the issue herein concerns sustainable development and preservation of the environment and ecology of NCT of Delhi/NCR.

29. An introspection on the issue raised before this Court would draw our attention to the grave and pressing problem the world over including India, namely, degradation of environment and ecology resulting in what is simplistically called 'Climate Change' and the problem of 'greenhouse gas emissions'.

30. The United Nations Conference on the Human Environment at Stockholm in 1972, United Nations Conference on Environment and Development (UNCED) known as the Rio de Janeiro Earth Summit in 1992; World Summit on Sustainable Development in Johannesburg in 2002 and Glasgow Climate Change

Conference currently held in October-November, 2021, have all voiced grave concerns about the global environmental degradation resulting in extinction of certain flora and fauna and its cascading effect on planet Earth owing to man's growing need for development particularly economic development.

31. Projects such as the metro railway in question have already been implemented in parts of NCT of Delhi/NCR. One cannot lose sight of the fact that it has resulted in loss of vegetation as well as flora and fauna in certain areas. The implementation of Phase IV of MRTS Project may be a further threat to the ecology of NCT of Delhi/NCR.

32. To meaningfully arrest the problem of declining tree cover, the civil society must also be placed with the responsibility to carry out reforestation activities. While we cannot ignore the importance of governmental responsibility in materializing the goals of

sustainable development through reafforestation, we strongly endorse the idea of collective responsibility towards ensuring a sustainable future. The engagement, inclusion and participation of citizens and perhaps more significantly, the ownership of the sustainable development agenda by empowered citizens and community-level actors will contribute in a significant manner to achieving the economic, social and environmental pillars of the sustainable development agenda.

33. Citizens, as the ultimate beneficiaries of development, have a critical role to play, not just in terms of effort and action towards the achievement of the environmental goals but also in terms of the associated monitoring of the progress towards these goals.

34. One of the important steps that Parliament has taken is to have enacted the Environment (Protection) Act, 1986 and the FC Act, 1980. The

FC Act, 1980 is a short but effective enactment comprising only of five sections. Section 2 of the FC Act, 1980 reads as under:

"2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.— Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing,—

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.]

[Explanation.—For the purposes of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for—

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing

plants, horticulture crops or medicinal plants;

(b) any purpose other than reafforestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wild-life, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.]”

35. While interpreting the word “Forest”, this Court in this very matter, speaking through J.S. Verma and B.N. Kirpal, JJ as their Lordships then were, on 12.12.1996, have observed, *inter alia*, as under:

“It has emerged at the hearing, that there is a misconception in certain quarters about the true scope of the Forest (Conservation) Act, 1980 (for short the ‘Act’) and the meaning of the word “forest” used therein. There is also a resulting misconception about the need of prior approval of the Central government, as required by section 2 of the Act, in respect of certain activities in the forest area which are more often of a commercial nature. It is necessary to clarify that position.

The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance: and therefore, the provisions made therein for the

conservation of forests and for matters connected herewith must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily 'recognised forests, whether designated as reserved, protected or otherwise for the purpose of section 2(1) of the Forest Conservation Act. The term 'forest land', occurring in section 2, will not only include "Forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this court in *Ambica Quarry Works v. State of Gujarat* (1987 (1) SCC 213), *Rural Litigation and Entitlement Kendra v. State of U.P.* (1989 Suppl. (1) SCC 504), and recently in the order dated 29<sup>th</sup> November, 1996 in *W.P. (c) No. 749/95* (*Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority and Ors.* (1985 (3) SCC 643) has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this court. It is reasonable

to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.

We further direct as under:-

I) General - In view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any 'forest'. In accordance with section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith. It is, therefore, clear that the running of saw mills of any kind including veneer or plywood mills, and mining of any mineral are non-forest purposes and, are therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith.

The felling of trees in all forests is to remain suspended except in accordance with the Working Plans of the State Governments, as approved by the Central Government. In the absence of any working plan in any particular state, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.

Each State Government should constitute within one month an Expert Committee to:

(i) Identify areas which are 'forests' irrespective of whether they are so notified, recognised or classified under any law, and irrespective of the ownership of the land of such forest;

(ii) Identify areas which were earlier forest but stand degraded, denuded or cleared; and

(iii) Identify areas covered by plantation trees belonging to the Government and those belonging to private persons.

36. We have considered the applications made by the applicants in the light of the aforesaid orders passed by this Court, the additional documents filed by GNCTD, Report Nos.8 and 10 submitted by the CEC and the recommendations made therein and the objections filed by the applicants vide I.A. No.142876/2021.

37. Pursuant to the Order of this Court dated 12.12.1996, an affidavit dated 15.09.1997 was filed by the Conservator of Forests, GNCTD. In the said affidavit under the head "Forest Areas and Plantation Areas along the Roads managed by PWD", the State Government has included the trees planted along the road side including Road No.26

in respect of which the application is filed as part of Annexure IX of the said affidavit.

38. On the other hand, the DPT Act, 1994 regulates felling of trees falling outside the notified forests and deemed forests. Under this Act, the user agency has to bear the cost of raising and maintenance of ten times the number of trees to be felled.

39. Therefore, the crucial issue whether the areas through which the metro railway lines are to be constructed and pass through as noted hereinabove are forest areas or non-forest areas has to be determined by GNCTD. In this context, we note that the applications have already been filed by DMRC under the FC Act, 1980 on 02.11.2020 before the Chief Conservator (Forest) and Nodal Officer (FCA), GNCTD, seeking sanction under the FC Act, 1980, for conversion of 50,421 Ha of forest land for construction of underground stations at Krishna Park and elevated corridor to Keshopur to Mukarba Chowk from Janakpuri corridor

in Phase-4 of MRTS project with a request to forward documents to the MoEF&CC, GoI for its consideration. Therefore, there has already been an application made seeking permission for diversion of Forest land or non-forest activity namely, the construction of the Metro railway line in respect of the aforesaid areas.

40. Further, the MoEF&CC (Forest Conservation Division), GoI, has also communicated by its letter dated 14<sup>th</sup> November, 2019 to the Principal Secretary, Forest of State and Union Territories as under:

"2. Based on the recommendation of the FAC with regards to the definition of forests, the Ministry has decided as follows:

(i) India is a vast country with varied geo-physical units and soil-climatic conditions that has given rise to a number of forest types. There are variations even within the forest types.

(ii) As far as developing criteria for 'deemed forests' is concerned, there cannot be any uniform criteria applicable to all forest types or all states. There has to be different criteria for different forest types or states.

(iii) It is only that Hon'ble Supreme Court had directed states to identify their own forests, in fact the states, having well

established forest departments, are in a better position, rather than MoEF&CC, to understand their own forests and needs, and should frame criteria for their forests.

(iv) While framing criteria, due diligence should be exercised taking into to account spirit of order of Supreme Court, National Forest Policy, the rationale of having adequate forests, site quality of naturally occurring forest species etc., for supporting a healthy environment.

(iv) The criteria so finalised by a state, need not be subject to approval of MoEF&CC. This issues with the approval of competent authority.”

41. On perusal of Report No.8 of 2021 in IA No.105674/2020 submitted by the CEC, it is observed that where any area is declared to be forest area (within the meaning of the definition given by this Court in the aforesaid order dated 12.12.1995), for diversion of the said area for a non-forest purpose would require approval under the provisions of the FC Act, 1980. However, if there is need for felling of trees outside any forest area then the provision of DPT Act, 1994 has to be complied with.

42. As far as, 23.62 km long Metro Corridor between Aerocity and Tughlakabad stations in

Delhi passing through Southern ridge, South-Central Ridge, Report No.10 of 2020 in IA No.169030/2019 states that an extent of 7,777 Ha of land of Delhi Ridge Area falls in the Northern Ridge, Central Ridge and South-Central Ridge as well as the Southern Ridge. The Ridge area has been described in the Master Plan (Land use Plan) as Regional Park.

43. By notification dated 24<sup>th</sup> May, 1994 under Section 4 of the Indian Forest Act, 1927, 7,777 Ha of Delhi Ridge area has been notified as Reserved Forest. It serves as the green lung for Delhi and acts as a buffer against rising pollution level and hence the Ridge area has to be conserved with utmost care and should be afforested with the indigenous species with minimum of artificial landscape is the recommendation of the CEC.

44. Pursuant to the directions issued by this Court, the RMB under the Chairmanship of Chief Secretary, Delhi, has been constituted for the

conservation and protection of Ridge. This is to ensure that the Ridge is not occupied or encroached upon by any person for any unauthorised purpose so as to preserve its status as 'forest'.

45. Further, notifications have been issued to exclude areas comprising in the Ridge from the provisions of the Delhi Land Reforms Act and not vesting the same in the Gram Sabha.

46. This Court by order dated 03.11.2011 passed in WP(C) No.3339/2011, held that land situated outside the notified Ridge areas but which have morphological features conforming to the Ridge should be given the same protection as is given to the notified areas. Therefore, any construction work to be carried out on such lands also referred to as 'Extended Ridge Areas', must have clearance from the RMB. Accordingly, recommendations have been made by the CEC in the

aforesaid Report No.10 while also noting the recommendations of the RMB.

47. In view of the above discussion, having regard to the specific recommendations of the CEC, the present interlocutory applications are disposed of in the following terms:

- (i) DMRC to file applications under the FC Act, 1980 to the Chief Conservator (Forest) and Nodal Officer (FCI), GNCTD, seeking permission for diversion of the following extents of land for the construction of Metro, Phase-IV of MRTS Project with a request to forward the said documents to the MoEF&CC, GoI, for its consideration under Section 2 of the FC Act, 1980:

- (a) 5.34 km stretch on Road No.26 between Vikaspuri to Peeragarhi;
  - (b) 1288.973 sqm land at Najafgarh drain;
  - (c) area admeasuring 16097.75 sqm land located at Mangolpuri; and
  - (d) area admeasuring 55.78 sqm at Krishna Park.
- (ii) It is needless to observe that the Chief Conservator (Forest) and Nodal Officer (FCI), GNCTD, shall consider the said application/s and forward the same to MoEF&CC, GoI, with his recommendations within a period of one month from the date of receipt of the said application/s.
- (iii) MoEF&CC, GoI, on receipt of the application/s, shall consider the same expeditiously and within a period of three months from the date of its receipt, communicate its decision to the applicant-DMRC as well as to the Chief Conservator

(Forest) and Nodal Officer (FCA),  
GNCTD.

- (iv) Insofar as the prayer sought by the Applicant-DMRC vis-à-vis South Central/morphological Ridge forming part of Aerocity-Tughlakabad Metro Corridor is concerned, having regard to the recommendations made by the RMB, the DMRC is directed to file an application before the RMB so as to seek necessary permission for diversion of the aforesaid Ridge areas for the purpose of Phase IV of the MRTS project passing through the said areas.
- (v) On such application being made, the RMB shall make its recommendations on the same and forward a copy of the said recommendations to the Chief Conservator (Forest) and Nodal Officer (FCI), GNCTD, as well as to the MoEF&CC, GoI, for its consideration

under section 2 of the FC Act, 1980 within a period of one month from the date of receipt of the said application.

- (vi) MoEF&CC, GoI, shall on receipt of the said application along with the recommendations of RMB and the Chief Conservator (Forest) and Nodal Officer (FCI), GNCTD, if any, shall consider the said application within a period of three months from the date of its receipt.
- (vii) DMRC shall also comply with all other conditions imposed by the RMB and also the orders passed by this Court in this very matter concerning the management of the Ridge.
- (viii) It is needless to observe that while considering the said applications, the directions and orders passed by this Court referred to above as well as the statutory scheme and guidelines and

parameters prescribed by MoEF&CC, GoI, shall be borne in mind by the concerned authorities. The Reports referred to above may also be taken into consideration.

- (ix) Irrespective of and *de hors* the decision to be taken by the concerned departments with regard to the recommendations made by the CEC in the aforesaid Report Nos.8 and 10, since the citizens of NCT of Delhi have had and would continue to have the facility of the metro rail, the GNCTD as well as DMRC are directed to conceive a plan of action for the purpose of planting trees in the NCT of Delhi. For that purpose, GNCTD may involve school and college students, educational institutions, Non-Governmental Organizations, Citizen Welfare Associations, public servants and every citizen or person who is interested in the ecology of NCT of

Delhi to plant trees/saplings and ensure that they are nurtured and protected so that the NCT of Delhi would in passage of time have more greenery leading to afforestation. The aforesaid direction is issued having regard to the precautionary principle as well as principle of sustainable development by ensuring citizens' participation in the preservation of the environment and ecology. It is needless to observe that such a plan of action would be conceived by the Department of Forest and Environment of NCT of Delhi in consultation with the Public Works Department, Education Department and such other departments who will involve themselves in ensuring the planting of saplings and trees in NCT of Delhi. Such a plan of action be conceived and the same be placed on record before this

Court within a period of twelve weeks  
for consideration of this Court.

.....J  
[L. NAGESWARA RAO]

.....J  
[B.R. GAVAI]

.....J  
[B.V. NAGARATHNA]

NEW DELHI;  
NOVEMBER 29, 2021.