

BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL  
WESTERN ZONE BENCH, PUNE  
Execution Application No. 13 of 2023  
In  
Original Application No. 194/2018  
(Earlier O.A. No. 17/2018 (WZ)  
(Disposed off on 16.12.2020)

IN THE MATTER OF

Ashish Rohidas Shinde  
& another

APPLICANTS

Versus

Lonavla Municipal Council  
& others

RESPONDENTS

AFFIDAVIT

I, Shri Pandit Khandu Patil, age adult, Occ: Chief Officer, Lonavla Municipal Council having address at LMC Building, Lonavla, Taluka Maval, District Pune, do hereby state on solemn affirmation, as under :

- 1) I say that the Hon'ble Tribunal was pleased to decide the O.A. No.194/1998 by its order dated 16<sup>th</sup> December, 2020. As per the same, the

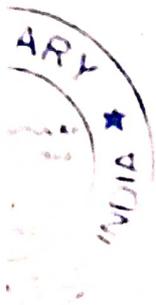


Committee constituted by the Tribunal, was directed to take further remedial action, in terms of the Report dated 1<sup>st</sup> January, 2020. Subsequently, the Applicants herein preferred an Execution No.11/2022, which was disposed off on 19<sup>th</sup> January, 2023. In the said Execution, the Respondent No.5 was given permission to transplant the trees and the Lonavla Municipal Council further directed to remove the encroachment thereafter within a period of two weeks and submit a Report to the Registry.

- 2) The Lonavla Municipal Council had submitted an Affidavit in E.A. No.1122 on 19<sup>th</sup> January, 2023 and brought to the notice of the Tribunal the attempt made by it to remove the encroachment. The same is hereby annexed and marked as "**EXHIBIT-A**". Subsequently, the Lonavla Municipal Council had also filed an



Interim Affidavit on 20<sup>th</sup> March, 2023 stating that the Respondent No 5 has not removed the trees and the Lonavla Municipal Council would make an attempt to remove them and replant them. The same is annexed and marked as **"EXHIBIT-B"**.



- 3) The Lonavla Municipal Council, through the Chief Officer, had also issued an order to its Garden Department to remove the 8 trees and replant them, by using scientific method, so that they shall survive upon replanting. A copy of the said order dated 24<sup>th</sup> March, 2023 is also annexed and marked as **"EXHIBIT-C"**.
  
- 4) I say that, however, the said work could not be done by the Garden Department, as they did not have sufficient expertise for replanting. However, subsequently, the said work could not

be completed for various Departmental reasons. The region of Lonavla gets maximum rains during the rainy season. Therefore, the said work also could not be done from the month of June and the entire river was got flooded with water and is absolutely impossible to access the said area, remove the trees and encroachment. Therefore, the said work can be done during the month of November and December, 2023 only, when the water little bit recedes. The Lonavla Municipal Council intends to obtain expert advice regarding replant from other Agencies and get the said work done. The Lonavla Municipal Council would require a period upto January, 2024 to complete the removal of trees and encroachment, considering the same is done in a river having water.



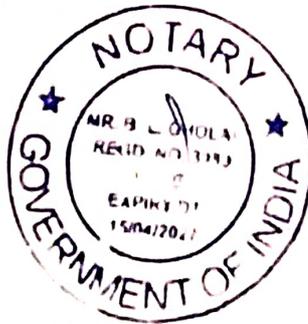
Whatever has been stated hereinabove is true and correct to the best of my knowledge, belief and information and, in witness whereof, I have signed this at Pune this 26<sup>th</sup> day of September, 2023.

*[Handwritten Signature]*

AFFIANT  
Chief Officer  
Lonavla Municipal Council

I know the Affiant

Advocate



**BEFORE ME**

*[Handwritten Signature]*

**MR. B. L. GHOLAP**  
NOTARY, GOVT. OF INDIA  
PUNE

Noted and Registered  
at Serial Number 411) 2023  
Date 26 SEP 2023



Exhibit A

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Item No. 4

(Pune Bench)

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

(By Video Conferencing)

Execution Application No. 11/2022(WZ)

In

Original Application No. 194/2018 (WZ)

(Earlier O.A. No. 17/2018)

Ashish Rohidas Shinde & Anr.

.....Applicant(s)

Versus

Lonavala Municipal Corporation & Ors.

....Respondent(s)

Date of hearing: 19.01.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Ms. Samridhi Jain, Advocate  
Respondent(s) : Mr. Ajay Gadegaonkar, Advocate for R-1/LMC  
Ms. Manasi Joshi, Advocate for R-4/MPCB  
Mr. Saurabh Kulkarni, Advocate for R-5/Pvt. Respondent

**ORDER**

1. From the side of Applicants, learned Counsel Ms. Samridhi Jain has appeared.

2. From the side of Respondent No.1/Lonavala Municipal Council, learned Counsel Mr. Ajay Gadegaonkar has appeared; from the side of Respondent No. 4/MPCB, learned Counsel Ms. Manasi Joshi has appeared; and from the side of Respondent No. 5/Prakash Mishrimal Porwal, learned Counsel Mr. Saurabh Kulkarni has appeared.

3. By the previous order dated 16.12.2022, it is apparent that learned Counsel for the Respondent No. 1 had sought 15 days' time to carry out the directions given by the said order, relevant part of which has been quoted by us in our previous order dated 11.11.2022. By the order dated 16.12.2022, the Respondent No. 1 was to submit compliance report

today, pursuant to his undertaking that the entire illegal dumping and encroachment in the Indrayani River in the area of 257 sq. meters would be cleared. But the learned Counsel for the Respondent No. 1 says that the said work could be done only partially because of certain reasons, therefore, seeks time till 04:00 P.M. today to file an affidavit to the effect that how much work has already been done? and in this, how much work is left and why?

4. From the side of Respondent No. 5/Prakash Mishrimal Porwal, learned Counsel Mr. Saurabh Kulkarni has appeared and apprised that reply affidavit has already been filed from its side, where-in it is prayed that the demolition work which is being carried out by the Respondent No. 5 (appears to be wrongly mentioned Respondent No. 5 as it should be Respondent No. 1) be stayed as it is not in accordance with the order passed by this Tribunal dated 16.12.2022. The reason for this has been given by him by saying in the body of the reply affidavit that in view of the grievance of the complainant to the effect that Respondent No. 5 had filled his land by encroaching upon the flow of river Indrayani, pursuant to which Survey dated 24.12.2019 was ordered by this Tribunal, which was carried out from Vadgaon Maval to measure the disputed plot, river and existing structures in Survey No. 24 owned by Respondent No. 5. Prior to the said Survey, the Respondent No. 5 had got the measurement done of Survey No. 24 on 20.08.2009. There is a difference in area of encroachment between the two Surveys done. If these two surveys are compared with each other, the dispute in respect of 257 sq. meters would be reduced considerably. Therefore, it appears that the Respondent No. 5 is trying to rake-up the issue of identification of the area of 257 sq. mtrs., which has been identified, from where the encroachment has to be

removed because he is claiming that some part of his house might fall in that area.

5. We have not come across any such ambiguity being there from the side of Respondent No. 1, which is directed to remove the encroachment.

6. The learned Counsel for the Applicant has also filed its short affidavit dated 08.01.2023, where-in it is stated that the Respondent No. 5 is raising obstruction to demolition of the encroachment on 257 sq. mtrs., identified by the order dated 16.12.2022 and several photographs have also been annexed showing that resistance was being offered from the side of Respondent No. 5. She has also stated that no notice was issued to them while the work of clearing of that area was undertaken and that she could know about the work being done only through live telecast of it on T.V.

7. We direct the Respondent No. 1 to file reply affidavit today itself at 04:00 P.M. so that we may pass final order in this regard.

8. Pursuant to our order, the matter is taken up again at 04:00 P.M.

9. The learned Counsel for the Applicants, learned Counsel for the Respondent No. 1/LMC as well as learned Counsel for the Respondent No. 5 have appeared.

10. From the side of learned Counsel for the Respondent No. 5/LMC, compliance affidavit has been filed, where-in it is submitted that the work of demolition was commenced on 29.12.2022 between 10:30 AM to 11:00 AM and at that time, the Respondent No. 5 had resisted the said proceeding, so much so that he personally slept on the path where the JCB machine was being used. It is further submitted that the Police personnel who were present on the spot, did not intervene. The

demolition work was being carried out with the help of 30 workers along-with the JCB machine but could be completed only to the extent of 100 sq. mtrs. because of the presence of water. It is also mentioned that they were required to collect the encroached soil and transport it back. The JCB machine also could not run faster because of their being water in that area and therefore, approximately one month's time is prayed to be allowed to conclude the exercise. It is further mentioned that there were 8 trees of mango and chikku, which need to be uprooted to complete the exercise and that, Police aid would be taken to complete the task/exercise. In case any further resistance is offered by the Respondent No. 5, a complaint may be filed against him.

11. The learned Counsel for the Respondent No. 5 is present along-with the party and states that there are 8 trees, which were planted by the Respondent No. 5, therefore, they should be permitted to take them and transplant them in his own premises.

12. Looking to the prayer made by the Respondent No. 5 that 8 trees would need to be uprooted from the area in question, therefore, he may be permitted to transplant them to a different area in his own premises at his own cost and their being no objection to it from the side of the learned Counsel for the Applicant and Respondent No. 1, we direct the Respondent No. 5 to get those trees transplanted at his own cost.

13. In view of above prayer of the Respondent No. 5 being allowed, we grant Respondent No. 5 the permission to transplant the trees within a period of one month from the date of order, failing which an adverse order would be invited by the Respondent No. 5. Apart from it, the Respondent No. 1/LMC is directed to complete the task of removal of complete encroachment within a period of two weeks thereafter and submit a report in the Registry of this Tribunal after the exercise is complete as

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well as a copy of the same shall also be served upon the Applicant. We leave it open to the Applicant that if any grievance still survives, she can approach us.

14. Accordingly, Execution Application No. 11/2022(WZ) stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 19, 2023  
Execution Application No. 11/2022(WZ) In  
Original Application No. 194/2018 (WZ)  
(Earlier O.A. No. 17/2018)  
P.Kr

Exhibit B

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INTERIM AFFIDAVIT

I, Shri Pandit Patil, Age adult, Occ: Chief Officer, Lonavla Municipal Council, having address at LMC Building, Lonavla, Taluka Maval, District Pune, do hereby state on solemn affirmation, as under :

- 1) I say that I am filing this Interim Affidavit to bring the present position and status, in respect of the orders passed by the Tribunal in E.A. No.11/2022.
- 2) The Hon'ble Court was pleased to direct the Respondent No.5 Mr. Prakash Porwal to transplant the trees on the areas encroached by him in the Indrayani River (Total No.8) within a period of one month. Thereafter, the Lonavla Municipal Council was directed to remove the entire encroachment within two weeks. The relevant para 13 is reproduced, as under :

*"In view of above prayer of the Respondent No.5 being allowed. we grant Respondent No.5 the permission to transplant the trees within a period of one month from the date of order, failing which an adverse order would be invited by the Respondent No.5. Apart from it, the Respondent No.1/LMC is directed to complete the task of removal of complete encroachment within a period of two weeks thereafter*

*and submit a report in the Registry of this Tribunal after the exercise is complete as well as a copy of the same shall also be served upon the Applicant. We leave it open to the Applicant that if any grievance still survives, she can approach us."*

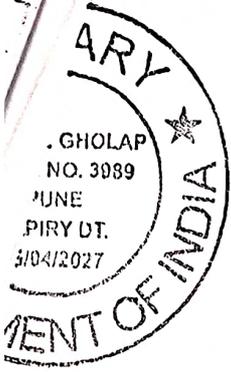


- 3) As per the inspection made by the Officers of the Lonavla Municipal Council at the site of the encroachment, it was found that the trees have not been either removed or replanted by Mr. Prakash Porwal up till 23<sup>rd</sup> February, 2023, though a period of one month and four days have left. On the contrary, Mr. Porwal informed the Officers that he has approached the Hon'ble Supreme Court by an appeal and the Hon'ble Supreme Court has given some directions to the District Collector.
- 4) I say that we were not issued with any notice, in respect of any appeal filed by Mr. Porwal before the Hon'ble Supreme Court. Our Lawyers have procured a copy from the Official Website of the Hon'ble Court. The said order is attached herewith and marked as "EXH.A".
- 5) By perusing the order, it is seen that the said appeal has been dismissed, by holding that there is no reason or scope to interfere with the order of the Tribunal. Moreover, the Hon'ble Supreme Court also observed the para 7 of the

order of the Tribunal dated 16.12.2020, which is reproduced, as under :

*“Accordingly, we dispose of this application directing the Committee to take further remedial action in terms of its report. In case of any dispute, the Collector who is the statutory authority under the relevant law may issue further directions.”*

- 6) The Hon'ble Supreme Court further made it clear that the recommendations of the Committee are to be enforced and action to be taken, in accordance with the law and, in the event any dispute arises on implementation of the report of the Committee to that limited extent, the Appellant will always have a liberty to approach the Collector, which is also stated in para 7 of the order of the Tribunal.
- 7) I say that, as the Respondent No.5 Mr. Prakash Porwal has failed and avoided to remove the trees and transplant the same, the Lonavla Municipal Council has passed an order on 24<sup>th</sup> February, 2023 under the Trees Act, whereunder the Lonavla Municipal Council will initiate the work of uprooting the trees and replanting the same at Survey No.24 owned by Lonavla Municipal Council. The same shall be completed by the Lonavla Municipal Council within a period of two weeks and thereafter the Lonavla Municipal Council shall commence the work of removing the



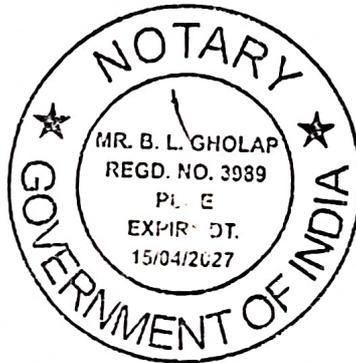
encroachment of soil and other material dumped in the Indrayani River, in accordance with the report of the Committee. The copy of the order passed by the Lonavla Municipal Council for transplantation of the trees is attached and marked as "EXH.B".

Whatever has been stated hereinabove is true and correct to the best of my knowledge, belief and information and, in witness whereof, I have signed this at Pune, this 20<sup>th</sup> day of March, 2023.

*Heath*  
AFFIANT  
**Chief Officer**  
Lonavla Municipal Council

I know the Affiant

Advocate



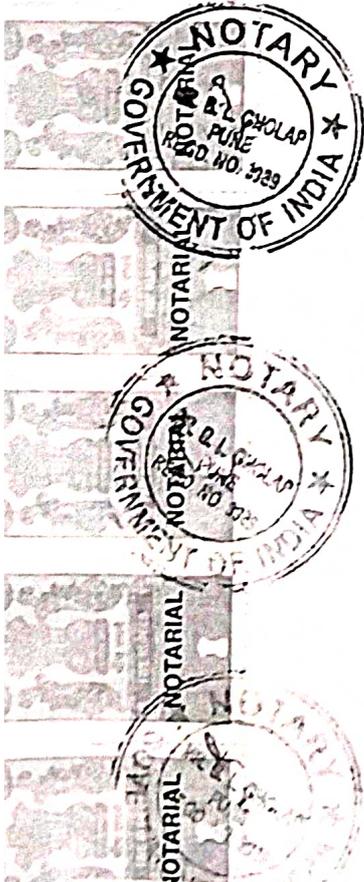
**BEFORE ME**

*[Signature]*

**MR. B. L. GHOLAP**  
NOTARY, GOVT. OF INDIA  
PUNE



Noted and Registered  
at Serial Number 162 / 2023  
Date:- 20 MAR 2023



जा क्र.लोनप /का.आ /2022-23/ 4224

दिनांक- 24/02/2023

प्रति ,

- 1) गार्डन विभाग प्रमुख , गार्डन विभाग  
लोणावळा नगरपरिषद
- 2) अतिक्रमण विभाग  
लोणावळा नगरपरिषद
- 3) वाहन विभाग  
लोणावळा नगरपरिषद

संदर्भ: 1) EA No 11/2022 NGT (WZ) Pune 19.01.2023 चा आदेश

2) Civil Appeal Diary No 5020/2023 मधील मे. सर्वोच्च न्यायालयाचा निकाल .

विषय : सर्व्हे नं. 24 लगत इंद्रायणी नदी मध्ये भराव टाकून 8 झाडे काढून दुसरीकडे पुनरोपण करण्या  
संदर्भात

आदेश

मी, श्री. पंडित पाटील मुख्याधिकारी लोणावळा नगरपरिषद वृक्ष संरक्षण कायदयाअंतर्गत प्राधिकृत प्राधिकृत  
अधिकारी खालील प्रमाणे आदेश पारित करतो.

सर्व्हे नं. 24 मौज भुशी लगत इंद्रायणी नदीमध्ये भराव टाकून त्यावर 8 फळझाडे हि वैज्ञानिक पध्दतीने जेणे करून  
सदर झाडांच्या मूळांना कमीत कमी इजा होवुन ती काढुन, ती नगरपालिकेच्या मालकीची जमीन शिवाजी गार्डन  
लोणावळा येथे पुनरोपण करण्यात यावे व त्यांचे संवर्धन करण्यात यावे. सदर कार्य आजपासुन 2 आठवडयात पूर्ण  
करण्यात यावे . नगरपालिकेने सदर कार्याची अमलवजावणी गार्डन विभागा मार्फत नगरपालिकेची यंत्रणा व मनुष्यवळ  
वापरण्यात यावे. तसेच सदर कार्यास लागणा-या सर्व खर्चास मान्यता घेण्यात यावे. गार्डन विभाग प्रमुख यांनी सदर  
कार्य पूर्ण करून व खर्चाचे तपशीलासह अहवाल जास्तीत जास्त 2 आठवडयात मुख्याधिकारी यांचे कडे समक्ष दाखल  
करण्यात यावा. सदर आदेशाची अंमलवाजवणी करता योग्य ती यंत्रणा व मनुष्यवळ व लागणारी वाहने, अतिक्रमण  
विभाग, वाहन विभाग यांनी अग्रतेने पुरवण्यात यावी व त्याकरीता हाच आदेश समजण्यात यावा. तसेच सदर  
आदेशाची रोजची प्रगती गार्डन विभाग प्रमुख यांनी समक्ष मला देण्यात यावी आणि स्वतः गार्डन विभाग प्रमुख यांनी  
लागणारी यंत्रणा , अवजारे ,वाहने व मनुष्यवळ आपल्या विभागामार्फत उपलब्ध करणे तसेच वाहन व्यवस्थापक व  
अतिक्रमण विभाग संपर्क व समन्वय स्वतः करणे आणि आदेशाची अमलवजावणी मुदतीत विनाविलंब पुर्ण करणे.

*Pratik*  
मुख्याधिकारी

6CC 87

लोणावळा नगरपरिषद  
तथा प्राधिकृत अधिकारी वृक्ष संवर्धन