

BEFORE THE NATIONAL GREEN TRIBUNAL

EXECUTION APPLICATION NO. 05/2024

IN

ORIGINAL APPLICATION NO. 27 of 2022

Shri. Balavant Murlidhar Parchure

Applicant

v/s

State of Maharashtra and others

Respondents

INDEX

Sr. No.	Exhibit No.	Particulars	Pages
1.	<u>1</u>	copy of interim order dated 16/01/2021	
2.	2	Letter to AGP H. Court Mumbai	
	3	Last page	

Adv. S.B Vaidya-Pandit

BEFORE THE NATIONAL GREEN TRIBUNAL

EXECUTION APPLICATION NO. 05/2024

IN

ORIGINAL APPLICATION NO. 27 of 2022

Shri. Balavant Murlidhar Parchure

Applicant

v/s

State of Maharashtra and others

Respondents

Affidavit in Reply on Behalf of Respondent no. 1 and 2

I Dr. Ajit Prakash Thorbole, age, 39 yrs, working as Sub Divisional Officer, Dapoli, Dist. Ratnagiri do hereby solemnly affirms on behalf of respondent no 1 and 2 as under,

1. I say that, I have gone through the contents of the Execution Application and its annexure thereto. I have been authorized by the Respondent no. 3 to file reply in the present O.A. I am filing this short affidavit in reply on the basis of available record and documents. I crave to file additional affidavit if circumstances so required.
2. I say that, this execution application is filed by the Applicant thereby prayed to execute the order passed by this Hon'ble Tribunal in O.A. no. 27/2022 dated 27.04.2023.
3. I say that, detail affidavit in the O.A. 27/2022 has been filed by the then SDO Dapoli wherein it has been stated that, the Hon'ble Civil Court has granted status quo order against the demolition notice issued by the then SDO u/s 53 of MLRC in respect of suit property. Considering the submission this Hon'ble Tribunal directed as under,




 Sub Divisional Officer
 Dapoli, Division Dapoli

- “ We find that it is admittedly a case of violation on the part of respondent no. 1 and 2, as they have gone beyond the permission granted by the MCZMA to raise construction of ground+2 floor, though they were granted permission to construct only G+ 1 floor and that too was granted only residential purpose. Therefore, 2nd floor, which has been made illegally, needs to be demolished in accordance with law, subject to the final decision to be delivered by the Hon’ble High Court of Bombay in case any matter is pending before it, related to the present construction in question.”

Sub Division
Dapoli, Div

4. I say that, earlier SDO Dapoli issued notice under The Maharashtra Regional and Town Planning Act 1966 section 52 and 53 and also under Maharashtra land revenue code 1966 under section 45 (2) to the project proponent i.e respondent no. 1 and 2 thereby directed to remove the illegal construction erected upon the suit property. However said notices were challenged by the private respondents through their power of attorney Shri. Naved Najir Syed before the Hon’ble Civil Court, Khed, Dist. Ratnagiri by filing civil suit no. 13/2020. The Hon’ble Civil Court passed an interim order in the said civil suit on 16.01.2021 thereby asked to maintain status-quo regarding the suit property until further orders. Hereto annexed and marked as **Exhibit R 1** is the copy of Status quo order.
5. I say that, against the above mentioned order the SDO office Dapoli has filed Revision application No. CRAFT/9787/2022 before the Hon’ble High Court Mumbai thereby prayed to vacate the status-quo order in the civil suit. Further in view of the order passed by this Hon’ble Tribunal, SDO office Dapoli by letter dated 14.11.2024 requested to learned AGP, Bombay High Court to place the Revision application for expedite hearing. The office of SDO Dapoli is taking follow up of the case and urged the AGP office to expedite the matter so that the order of this Hon’ble Tribunal can be implemented. Hereto annexed and marked as **Exhibit R 2** is the copy of letter dated 14.11.2024.


NOTA
AD
VIDYAB
V. V
DAPOLI
REGD
EXPIRY
GOVERN

6. I say that, SDO Dapoli has initiated appropriate action against the illegal construction. There is no any willful delay to execute the order

Sub Division
Dapoli, Div

passed by this Hon;ble Tribunal. In view of the above circumstances, the order cannot be implemented.

7. In view of the above stated facts and circumstances appropriate order may be passed.

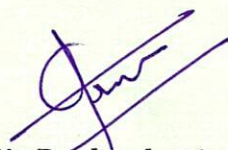

(Dr. Ajit Prakash Thorbole)
Behalf of Respondent no. 1 and 2
Sub Divisional Officer
Dapoli, Division Dapoli


Sub Divisional Officer
Dapoli

VERIFICATION

I Dr. Ajit Prakash Thorbole, age, 39 yrs, working as Sub Divisional Officer, Dapoli, Dist. Ratnagiri do hereby state on affirmation that whatever stated here in above is true to the best of my knowledge and based upon the information derived from the official records available to me and the contents there in are as per my information are true and correct.

Solemnly affirmed at-) Dapoli
This 18th day of November 2024)

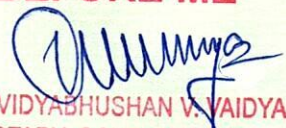

(Dr. Ajit Prakash Thorbole)
Behalf of Respondent no. 1 and 2
Sub Divisional Officer
Dapoli, Division Dapoli



DEPONENT

Identify the Deponent
(Adv.S.B. Vaidya- Pandit)

BEFORE ME


ADV. VIDYABHUSHAN V. VAIDYA
NOTARY, GOVT. OF INDIA
DAPOLI, Dist. Ratnagiri
ADV. VIDYABHUSHAN V. VAIDYA
B.SC., L.L.B.
(NOTARY, GOVT. OF INDIA)
AT. DAPOLI, TAL. DAPOLI
DIST. RATNAGIRI - 415712 (M.S.)
Mob.: 8888646464 / 9422393118

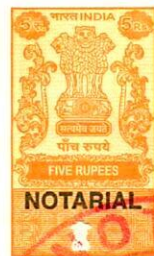
Solemnly affirmed before me by
Shri/ Dr. Ajit Prakash Thorbole sub Divisional officer
Who is identified by Shri/ me
Whom I Personally Know.

Noted & Registered	
At Serial No.	Date
309	18/11/2024

This Document Content
Three Pages.



ADV. VIDYABHUSHAN V. VAIDYA
NOTARY, GOVT. OF INDIA
DAPOLI, Dist. Ratnagiri



-1-

Reg.Civil Suit No.13/2020
(CNR NO.:MHRT020001302020)
Mayuresh Ashok Amburle + 4
Vs.
Upvibhagiya Adhikari,Dapoli+ 2

ORDER BELOW EXH. 42
(Passed on : 16/01/2021)

1. The plaintiff has filed the application and averred that the defendants have not filed their say and written statement till today and this Court has granted status quo order till today vide Exh.41. The plaintiff has prayed that the status quo order may kindly be continued.
2. Defendant nos. 1 to 3 are repeatedly called for filing their say and written statement on this application, but remain absent. The learned A.G.P. Sou.M.M.Jadkar is also called for filing their say on this application, but remain absent.
3. Considering the application and hearing, this Court do found merit in the application. In the result, this Court pass the following order :-

ORDER

Defendant nos. 1 to 3 are hereby directed to maintain status quo regarding the suit property until further orders.

Gabriel
Joseph
Shrisunder

Digitally signed
by Gabriel Joseph
Shrisunder
Date: 2021.01.18
10:57:53 +0530

Date : 16/01/2021.
Place:Khed.

(G. J. Shrisunder)
Civil Judge S.D., Khed.
Dist.Ratnagiri.

Judgment/order in Regular Civil Suit No. 13/2020

I affirm that the contents of this Pdf file judgment/order are same words as per original judgment/order.

Name of Stenographer :- S. M. Jadhav

Court Name :- Civil Judge S.D., Khed, Dist. Ratnagiri

Date of Decision :- 16.01.2021

Judgment/order signed by P.O. on :- 16.01.2021

Judgment/order uploaded on :- 18.01.2021

SATYAMEV JAYATE
MAHARASHTRA GOVERNMENT
REVENUE AND FOREST DEPARTMENT
OFFICE OF SUB-DIVISIONAL OFFICER AND SUB-DIVISIONAL
MAGISTRATE DAPOLI, DIST. RATNAGIRI

Sub Divisional Officer & Sub Divisional Magistrate Dapoli Division Dapoli

Phone No.: 02358-282031, E-Mail: sdo_dapoli@rediffmail.com

NO/LNA/CRZ/KAVI /AABURLE CLAIM

Date 14/11/2024

To,

Hon'ble Chief Government Counsel
Appellate Branch, 1st Floor,
High Court Mumbai-400032

Subject:- Regarding the appeal pending in the court of Hon'ble High Court of Bombay

References:- 1. Filed under Appeal No. CRA/ST No. 9787/2022 in the court of Hon'ble High Court of Bombay
2. Hon'ble National Green Arbitration Pune Execution Application No. 05/2024(Execution Application No. 05/2024)

Sir,

Property bearing Survey no. 215, Hissa No. 13A situated at Village Harne, Ta. Dapoli, Dist. Ratnagiri is owned by Smt. Archana Ashok Aamburle and Mr. Mayuresh Ashok Aamburle. As per Application given by Smt. Archana Ashok Aamburle & 2 others through their power of attorney holder Mr. Naved Najid Sayyad resi. at Harne, Ta. Dapoli Non-Agricultural Order have been passed by this office according to Non-Agricultural Order bearing No./LNA/SR/43/2016 dated 24/10/2016. By amending the construction plan in the said order applicant revised Non-Agricultural Permission has been sought by the applicant according to which Revised Non-Agricultural Order has been passed by Revised Non-Agricultural Order bearing No./LNA/SR/43/2016 dated 17/03/2017. According to Appeal bearing No. Binsheti/Appeal/No. 01/2018 filed by Mr. Husainmiya Tajuddin Jamadar through Mr. Akhtar Husainmiya Jamadar Resi. at Harne in the court of Hon'ble Additional Collector Ratnagiri both the abovementioned Non-Agricultural orders have been cancelled by allowing the said appeal. Against which Mr. Aamburle had filed an Appeal in the court of Hon'ble Additional Commissioner Konkan Division bearing no. Appeal/Desk/LND/271/2019 dated 10/02/2020. By

dismissing the said Appeal order passed by Hon'ble Additional Collector Ratnagiri have been upheld. Notice has been issued to Mr. Aamburle regarding removal of said construction due to cancellation of Non-Agricultural Order given by this office to Mr. Aamburle for construction in non-agricultural order permitted area. Notice has been also issued according to Sec. 52,53 of Maharashtra Regional and Town Planning Act 1966 & Sec. 45(2) of Maharashtra Land Revenue Act 1966 as per the complaint of Mr. Hanumant Tukaram Sarang received by this office bearing Letter No./Jababi/A.Na.Ba./Notice/Sarang Takrar/2020 dated 01/09/2020. Against said notice said Smt. Archana Ashok Aamburle and Mr. Mayuresh Ashok Aamburle through their power of attorney holder Mr. Naved Najir Sayyad Resi. at Harne, Ta. Dapoli have filed a suit bearing R.C.S. No. 13/2020 in the court of Hon'ble Civil Court Khed and in the said suit court issued order dated 23/04/2021 saying pending till the final decision. Against said order appeal has been filed by this office in the court of Hon'ble High Court of Mumbai bearing Appeal No. C.R.A/S.T. No. 9787/2022. Said appeal is pending in the court of Hon'ble High Court of Mumbai.

Mr. Balwant Parchure has filed a suit against Mr. Mayuresh Ashok Aamburle & 5 according to Original Application No. 27/2022 in the court of Hon'ble National Green Arbitration Western Division Bench Pune. An Affidavit has been filed by this office on behalf of defendants no. 3 to 5 (Sub-Divisional Officer Dapoli Defendant no. 3, Hon'ble Collector, Ratnagiri Defendant no. 4, Hon'ble Director and Member Secretary MCZMA Defendant no. 5) in the said suit. The Hon'ble court have passed Suit Disposed order in the said suit on 27/04/2023.

In the case of said suit Mr. Balwant Murlidhar Parchure has filed Execution Application No. 05/2024 in the court of Hon'ble National Green Arbitration Pune. On the said application date of hearing of the case in the court of Hon'ble National Green Arbitration Pune is mentioned as 21/11/2024. Thus in the said case Appeal No. C.R.A/S.T. No. 9787/2022 is pending for hearing in the court of Hon'ble High Court of Mumbai. Execution Application No. 05/2024 is also pending in the court of Hon'ble National Green Arbitration Pune.

Thus It is requested to take further appropriate action at your level in the context of hearing in the matter of suit bearing Appeal No. C.R.A/S.T. No. 9787/2022 in your Hon'ble High Court of Mumbai.

Yours Faithfully,



(Dr. Ajit Thorbole)
Sub-Divisional Officer
Dapoli Division Dapoli

Copy :- Humbly presented to Hon'ble Collector Ratnagiri (Revenue Department)
Copy :- Presented to Adv. Mrs. Swati Vaidya Pandit, Collector Office Pune Care of Hon'ble National Green Arbitration Court, Western Division Bench Pune