

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH

ORIGINAL APPLICATION No. 87 of 2023

Vanashakti & Anr

...Applicant

Versus

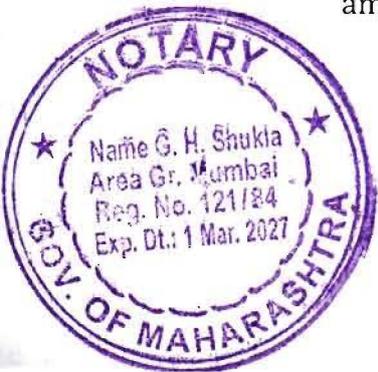
MCGM &Ors.

...Respondents

AFFIDAVIT IN REPLY

I, Sudhakar Bhivsan Nanote, Age: 54 years, Occupation – Service as Executive Engineer – SWM Department, Zone – 6, of Municipal Corporation of Greater Mumbai, the authorized signatory for MCGM, having office at Pantnagar Garage Building, near BEST Colony, Ghatkopar – East, Mumbai – 400075, do state on solemn affirmation as under:

1. I say that; I have made myself conversant with the facts of the case and am able to depose on behalf of the Respondent No 1. I am filing this



affidavit in reply thereto. At the outset I submit that the application filed against Respondent No. 1 - Brihanmumbai Municipal Corporation (hereinafter referred as BMC) is not maintainable in view of the fact that the subject land is under ownership and possession of Aarey authority and MCGM neither has any authority to issue any permission/consent regarding dumping any debris nor MCGM has any responsibility to remove any debris dumped illegally, on land owned by Aarey authority.



2. I say that; vide Government Notification dated 10/10/2013 Revenue and Forest Department, Government of Maharashtra has also clarified that it is the duty of the concerned Department / Authority in whose name the Government Land vest, shall protect those land from any encroachments and shall take all legal action against the encroaches including filing of Police Complaints. **A copy of Government Notification dated 10/10/2013 is marked and annexed as Annexure E in I.A.NO.168/2023**
3. I say that; as the site in question is owned by Respondent No.9 i.e. Mumbai Dugdha Yojana, Govt. of Maharashtra (Aarey Milk Colony) and therefore Respondent No. 9 is the competent authority to remove the debris from the site and also to take action against the illegal dumpers.

A copy of property card is marked and annexed as Annexure F in I.A.NO.168/2023

4. I say that, this Hon'ble Tribunal as per the order dated 07.08.2023 and 29.08.2023 directed MCGM to coordinate with the respondent No.3/The Collector, Mumbai Suburban, the respondent No.8/Principal Secretary, Urban Development Department, State of Maharashtra and the respondent No.9/Chief Executive Engineer, Aarey Milk Colony in getting the work executed and submit a report. In compliance of same; a co-ordination meeting was conducted in the Office of MCGM on 09.10.2023, wherein all concerned stake holder called for. Hereto marked and annexed as Annexure A is the copy of Letter regarding meeting scheduled on 06.09.2023. However, only representative of Respondent /MPCB, was present. Hereto marked and annexed as Annexure B is the copy of minutes of meeting dated 09.10.2023.
5. It is most respectfully submitted that, Hon. NGT (Principal Bench), New Delhi order dated 15-03-23 in O.A. no. 343/2021, in which, Hon. NGT had directed land owner i.e. Salt Commissioner to remove the encroachment on its land while coordinating with other agencies and the same to be overseen by Environment Department, GoM. On similar lines, it is submitted that, in this case also, land owner i.e., Aarey Milk



Colony may please be directed to remove the debris and coordinate with other agencies.

6. It is most respectfully submitted that, with reference to order dated 13/10/2023, since the land is owned and possession of Aarey Milk Colony, the expense towards the proposal of Joint Committee report may please be borne by Aarey Milk Colony.
7. It is most respectfully submitted that, with reference to order dated 13/10/2023, the expense to remove the debris from the site in question, expense towards where the same should be taken to if it is to be considered to be removed and expense any other option may please be borne by Aarey Milk Colony.
8. I further submit that; subject land is under ownership and in possession of the respondent No. 9/Chief Executive Engineer, Aarey Milk Colony. The present Respondent - MCGM has neither has authority to grant any permission/consent regarding dumping any debris nor authority to remove any debris, either dumped legally or illegally on the land categorically owned by the respondent No. 9/Chief Executive Engineer, Aarey Milk Colony.
9. It is most respectfully submits that; in view of the facts stated above Respondent No. 9 Aarey Authority is the competent authority for



removing the debris on the site in question and coordinate with other respondents.

10. It is therefore prayed that:-

- a. The order dated 29/08/2023 may please be recalled to a limited extent that Respondent No.9 instead of Respondent No.1 shall be directed to remove the debris and coordinate with other respondents for the same.
- b. In view of order dated 13/10/2023, expense towards execution of proposal in Joint Committee report, expense towards removal of debris from the site in question, expense towards where the same should be taken to if it is considered to be removed and expense towards any other option may please be borne by Aarey Milk Colony; as the land is owned and possessed by Aarey Milk Colony.
- c. Any other order may be passed in the interest of justice.

Date:

Mumbai



Respondent No. 1

Executive Committee
(3/1/2023)



VERIFICATION

I, Sudhakar Bhivsan Nanote, Age: 54 years, Occupation - Service as Executive Engineer - SWM Department, Zone - 6, of Municipal Corporation of Greater Mumbai, the authorized signatory for MCGM, do hereby state on solemn affirmation that what is stated in above paras are true and correct to my own knowledge and belief.

Solemnly Affirmed at Mumbai

- 4 APR 2024

This day of April, 2024

Ed.

Respondent No.1

Executive Engineer
(SWM/2024-VI)

[Signature]

Advocate for Respondent No.1

BEFORE ME

G. H. SHUKLA
NOTARY GREATER MUMBAI
Jagdamba Bhavan, Ground Floor,
Ganpatrao Kadam Marg, Lower Parel,
MUMBAI - 400 013.

- 4 APR 2024

NOTED & REGISTERED

Sr. No. 62153 Page No. 25

Book No. 22 Date - 4 APR 2024

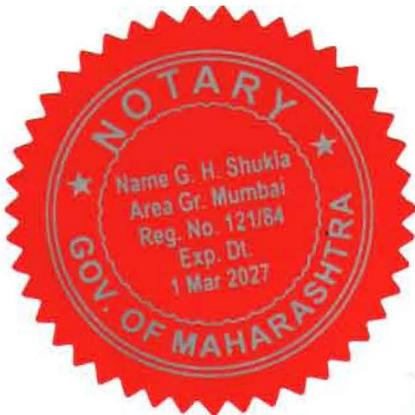


Exhibit-ABRIHANMUMBAI MUNICIPAL CORPORATION

ACS/8323/AESWM dated 06/09/2023

Office of the Asst. Commissioner 'S' Ward
1st Floor, BMC S ward Building,
L.B.S. Road, Bhandup (W)
Mumbai-400078.

To,
Chief Executive Officer (CEO),
Aarey Milk Colony,
Workers Colony, Aarey Colony,
Goregaon, Mumbai-400065.

Subject :- Coordination meeting as per Hon. National Green
Tribunal (NGT) Western Zone Bench, Pune orders.

Original Application no. 87 of 2023 (WZ)

Vanashakti & Anr..... Applicant(s)

MCGM & Ors. Respondent(s)

Reference :- Hon. NGT Western Zone, Pune order dated 29-08-2023.

Respected Sir

In this case, Vanashakti & Ars. had approached National Green Tribunal (NGT) against respondent's 1) MCGM 2) The Collector (Mumbai Suburban), 3) Principal Secretary (UDD) 4) CEO/Chief Executive Engineer (Aarey Milk Colony), 5) MPCB 6) MoEF & CC 7) Env't. Deptt. regarding clearing of debris from plot bearing Survey no.10, Village Paspoli, CTS no.83, Taluka Kurla, District Mumbai Eastern Suburbs in S ward.

Last hearing was held on 29-08-23 and Hon'ble NGT Western Zone, Pune order dated 29-08-23 is attached herewith at 03 to 07. As per the order of Hon'ble NGT dated 29.08.2023, Hon'ble NGT has directed to clear the debris from the subject plot of Aarey Milk colony within two weeks. This office had already communicated to you in written w/n ACS/40547/AEMS-II dt.11.05.2023 & ACS/5419/AE SWM dt.20.07.2023 (copies of same at p.g. no. 03 to 11).

The Joint Committee constituted as per the order of Hon'ble NGT in Original Application no. 87 of 2023 (WZ) was held at site on 18.07.2023 and directed to ground visual study of the site where debris and mud is found dumped on eastern side of the bank of the Mithi river. It is observed from Joint Committee report that land owner is CEO of Aarey Milk colony, Maharashtra Government.

In order to facilitate disposal of debris, we are providing details of agencies dealing in the field of processing the C&D waste in scientific and environmentally sound manner. Following are the details agencies available in Mumbai & Navi Mumbai area for processing C&D waste material in scientific manner.

Sr. No.	Name of Agencies	Contact Person
1	M/s. Metro Waste Handling Pvt.Ltd.	Mr. Anil Sharma 9867714965
2	Navi Mumbai Municipal Corporation C&D waste plant Turbhe.	Mr. Sawant 8369890497 JE. Mr. Vishwe 9892450781
3	Godrej C&D Waste Processing Plant Vikhroli	Mr. Kadam 9819102917

As the land is under jurisdiction and possession of CEO of Aarey Milk colony, GoM and being the ownership of land under Aarey Authority (State Government of Maharashtra), you are requested to clear the debris as per the order of Hon. NGT dated 29-08-23 please.

Yours faithfully,

(Shri. M. B. Shinde) 6/9/2023

Assistance Commissioner 'S' Ward

6 SEP 2023

मुख्य कार्यालयी अधिकारी
पत्रि कार्यालय
घारे दुग्ध वसाहत
सेरेगाव, मुंबई ४०० ०६५



BRIHANMUMBAI MUNICIPAL CORPORATION
Solid Waste Management Department

क्र. कार्य अभि. घकव्य/ 3417 परि-6 दि-12/10/23

Co-ordination Meeting held under chairmanship of Hon'ble AMC (City) dtd. 09.10.2023

Vanashakti & Anr.....Applicant(s)

MCGM & Ors.....Respondent(s)

Hon'ble NGT Western Zone, Pune order dated 29-08-2023

The following officers from different departments were present.

Sr. No.	Name of the officer	Designation
1)	Dr. Sudhakar Shinde	A.M.C. (W.S.); In Chair
2)	Smt. Chanda Jadhav	DMC (SWM)
3)	Mr. P.K Tayshete	Ch. Engr. (SWM)
4)	Assistant Commissioner	S ward
5)	Mr. D.N Ahire	A.E (S.W.M.) S-Ward
6)	Mr. Kishor Kenlikar	SRO Mumbai - II (Representative of MPCB)
7)	Mr. Aavesh Mukadam	ERAF (Project Co-ordinator) (Representative of MPCB)
8)	Mr. Arun D Dhumale	Dy. L.O.(DRT)
9)	Mr Prakash Shejal	ALO (DRT)

Initially, Executive Engineer (S.W.M.) Zone- VI brief the issue.

As per the direction given by Hon'ble NGT court, a co-ordination meeting was conducted under the Chairmanship of Hon'ble Additional Municipal Commissioner (WS) on 09.10.2023 at 03.00 pm. During the meeting representative of MPCB were present whereas representatives of CEO / Chief Executive Engineer of other respondents ie. Aarey Milk Colony, Collector (Mumbai Suburban) and Principal Secretary (UDD) were absent.

During the co-ordination meeting AMC (WS) has directed to BMC's legal team to insist Counsel to represent the following points in front of the court.

- 1) "CEO/ Chief Executive Engineer of Aarey Milk Colony under the State Government of Maharashtra has to co-ordinate with the other concurrent authority to clear the debris from site as being owner of land.

Meeting is concluded with the vote of Thanks.

Forwarded for information and necessary action please.

Dy. Law officer
BMC Head office




 Executive Engineer (SWM) Z-VI