

244
BEFORE THE NATIONAL GREEN BENCH TRIBUNAL,
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 92 / 2024 WZ
EARLIER ORIGINAL APPLICATION NO. 372/2024 (PB)

In the matter of;-

**NEWS ITEM TITLED “MUMBAI LOST OVER 21000 TREES IN 6 YEARS TO
MAKE WAY FOR METRO ROAD PROJECTS” APPEARING IN THE INDIAN
EXPRESS DATED 26.03.2024**

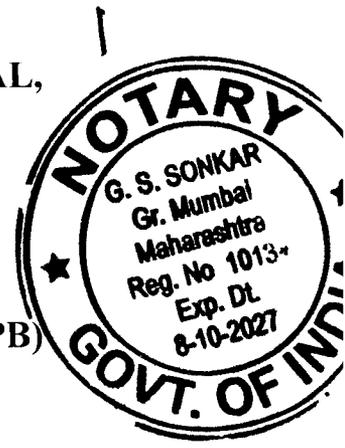
INDEX

Sr. No.	Particulars	Page No
1.	Affidavit in Reply on behalf of Mumbai Metro Rail Corporation Limited (Respondent No. 6)	1-9
2.	Annexure A A copy of the Order dated 15 th April, 2019	10-11
3.	Annexure B A copy of the Order dated 07 th October, 2019	12-14
4.	Annexure C A copy of the Order dated 21 st October, 2019	15-18
5.	Annexure D A copy of the Order dated 29 th November, 2022	19-33
6.	Annexure E A copy of the Order dated 17 th April, 2023	34-43
7.	Annexure F A copy of the report	44-61

8.	Annexure G A copy of the Order dated 12 th August, 2025	62-65
9.	Annexure H A copy of the Order dated 05 th May, 2017	66-85
10.	Annexure I A copy of the Order dated 18 th May, 2017	86-87
11.	Annexure J A copy of the Minutes of Meeting dated 04 th September, 2024	88-94
12.	Annexure I A Copy of Minutes of Hon'ble High Court Committee dated 09 th November 2023	95-100

246
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In the matter of;-

NEWS ITEM TITLED “MUMBAI LOST OVER 21000 TREES IN 6 YEARS TO
MAKE WAY FOR METRO ROAD PROJECTS” APPEARING IN THE INDIAN
EXPRESS DATED 26.03.2024

AFFIDAVIT ON BEHALF OF MUMBAI METRO RAIL CORPORATION LIMITED
(RESPONDENT NO. 6)

I, **Ajay Tulshiram Fulmali, Age- 62**, working as the Advisor (Environment) of the present Respondent No.6, having my office address at 202, 2nd Floor, Hallmark Business Plaza, opp Gurunanak Hospital, Sant Dhaneshwar Marg, Bandra East, Mumbai- 400 051 do hereby solemnly declare and state as follows:

1. I am currently working as the Advisor (Environment) in the office of Respondent No. 6. By virtue of my employment, I am well acquainted with the facts and circumstances of the present case. I have perused the records available with the Respondent with respect to the present matter and I am filing the affidavit on the basis of such record.
2. I say that I am in receipt of a notice dated 02nd July, 2025 (“**the Notice**”), received by Respondent No.6 on 07th July, 2025. As per the notice dated 02nd July, 2024, the Respondent attended the hearing on 24th July, 2025. In compliance with the direction of the tribunal I am filing the present affidavit to bring on record the necessary facts related to the instant matter.
3. I say that Mumbai Metro Rail Corporation Limited (“**MMRCL**”) is a SPV and Joint Venture of the Government of India and Government of Maharashtra set-up for

Ajay Fulmali

implementation of Mumbai Metro Line 3 ("MML-3") operating along the Colaba-Bandra-SEEPZ route for 33 km with 26 underground stations and, 1 at grade station.

4. I say that the 1st phase of the MML-3 Project i.e., Aarey Colony to BKC Bandra (consisting of 10 Stations) has been commissioned and opened for passenger services on 7th October 2024. The 2nd phase of the Project i.e., Phase 2A from Dharavi to Acharya Atre Chowk (consisting of 6 stations) is commissioned and opened for passenger services on 10th May 2025. I say that the remaining final i.e., Phase 2-B from Science Museum to Cuffe Parade (consisting of 11 Stations) is yet to be commissioned.
5. I clarify that Respondent No.6 is the implementing agency only for MML-3 and not the other Metro & infrastructure Projects which are being commissioned / operating in the city of Mumbai.
6. I say that to facilitate the construction of Metro stations and allied activities of MML-3 Project, Respondent No.6 were constrained to remove (Cut/ transplanted) the minimum and essential number of trees.
7. I say that there are pending litigations before the Hon'ble Supreme Court and Hon'ble Bombay High Court in connection with the removal of Trees for the MML-3 Project.
8. I further say that a Writ Petition was filed by Amrita Bhattacharjee & Ors. [Writ Petition (L) No. 2766 of 2017] challenging the notification dated 24th August, 2017 and 09th November, 2017 deleting certain portions of Aarey Land from No-Development Zone and reserving the same for Metro Car Depot/Workshop and allied user. The said Writ Petition was dismissed by the Hon'ble High Court vide Judgement and Order dated 26th October, 2018.
9. I say that the said Order is challenged by the Petitioners by way of SLP (C) 31178 of 2018. On 15th April, 2019, the Hon'ble Supreme Court whilst considering the aforementioned SLP declined to grant any interim relief. A copy of the Order dated 15th April, 2019 is enclosed as Annexure "A".



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10.I further say that Mr. Zoru Bhatena also filed a Writ Petition (L) No. 2565 of 2019 challenging the resolution dated 29th August, 2019 passed by the Tree Authority approving Respondent No. 6's proposal to remove 2646 trees at Aarey (2185 cut & 461 transplant). Even the said Writ Petition was dismissed by Judgement and Order dated 04th October, 2019.

11.I say that a Special Leave Petition (Civil) No. 24849 of 2019 is filed challenging the aforementioned order.

12.I say that the following matters were tagged along with the Suo-Moto Writ (Civil) No. 2 of 2019

- i. SLP No. 24958 of 2019
- ii. SLP(C) No. 14933 of 2019
- iii. SLP No. 024849 of 2019
- iv. SLP No. 31178 of 2018
- v. WP No. 1283 of 2019.

13.I say that the Hon'ble Supreme Court took cognisance of tree cutting activities at the Aarey Land Depot through Suo-Moto Writ (Civil) No. 2 of 2019. On 07th October, 2019, while hearing the aforementioned matter, the Supreme Court recorded the statement on behalf of MMRCL that no further trees would be felled till the next date of hearing. The Hon'ble Court directed "*As undertaken, status quo be maintained till the next date of hearing with respect to cutting of trees.*" A copy of the Order dated 07th October, 2019 is enclosed as **Annexure "B"**.

14.I say that on 21st October, 2019 the Hon'ble Supreme Court directed Respondent No.6 as follows:

"to produce the photographs of the trees and number of surviving trees which were planted two years ago, the girth of the trees as well as their height. The same shall be produced before the Court by way of an affidavit. It shall also be clearly stated in the affidavit as to what is the survival rate of the transplanted trees and how many have survived till date. Let the figures be stated".

David



A copy of the Order dated 21st October, 2019 is enclosed as Annexure "C".

15. I say that the matter was thereafter transferred to the Forest Bench. On 05th August, 2022 the Hon'ble Supreme Court directed that all the connected writ petitions and Special Leave Petitions could be listed for final disposal.

16. I further say that since status quo order granted by the Hon'ble Supreme Court was in operation, Respondent No. 6 moved an application before the Hon'ble Supreme Court for felling of 84 trees. The Hon'ble Supreme Court after hearing the parties, vide its Judgement and Order dated 29th November 2022 modified its direction of maintaining status-quo to the extent of allowing Respondent No.6 to move the Tree Authority for felling of 84 trees. A copy of the Order dated 29th November, 2022 is enclosed as Annexure "D".

17. I say that subsequently, vide Judgement and Order dated 17th April, 2023, the Hon'ble Supreme Court, permitted Respondent No.6 to act in compliance with the Order dated March 15, 2023 passed by the Superintendent of Gardens, MCGM (for felling of 124 trees and transplantation of 53 trees), for metro car shed land at Aarey colony subject to detailed directions which are as under:

"MMRCL shall, within a period of two weeks, deposit an amount of Rupees Ten Lakhs with the Conservator of Forests;

The Conservator of Forests shall ensure that all directions which have been contained in the previous orders of the Tree Authority for afforestation have been duly complied with;

The Conservator of Forests shall submit a report before this Court indicating the status of compliance in regard to the directions which have been issued up-to-date for afforestation and for transplantation of trees; and

In order to enable this Court to have objective assistance in regard to the compliance of the directions for afforestation, we request the Director of IIT

David



Bombay to depute a team for the purpose of verifying compliance. A report shall accordingly be submitted before this Court within a period of four weeks. The costs, charges and expenses payable shall be borne by MMRCL.”

A copy of the Order dated 17th April, 2023 is enclosed as Annexure “E”

18.I say that based on Hon’ble Supreme Court’s directions, Conservator of Forests and team from IIT Bombay conducted detailed inspections through multiple visits and submitted its report with the Hon’ble Supreme Court. A copy of the report is enclosed as Annexure “F”.

19.I say that the aforementioned proceedings are still pending before the Hon’ble Supreme Court and is scheduled to be listed on 14th August 2025. A copy of the last Order dated 12th August, 2025 is enclosed as Annexure “G”.

I respectfully submit that the aforementioned facts, specifically demonstrate that the issue related to cutting of trees at Aarey Colony and transplantation of trees is pending with the Hon’ble Supreme Court in Suo-Moto Writ (Civil) No. 2 of 2019 and connected Petitions. This is evident from the following points:-

- a. The Order of Tree Authority permitting cutting of trees in Aarey Colony forms a part of the *lis* pending before the Hon’ble Supreme Court. The Hon’ble Supreme Court had passed an order of status quo which is applicable till date, subject to the modifications made thereafter by the Hon’ble Supreme Court.
- b. Any felling of trees in Aarey Colony is done only after obtaining necessary permission / leave from the Hon’ble Supreme Court.
- c. The Hon’ble Supreme Court has passed express directions to the Conservator of Forest and IIT Bombay to conduct site visits and file comprehensive reports before the Hon’ble Supreme Court regarding afforestation and transplantation qua the trees cut in Aarey Colony.



[Handwritten Signature]

d. The Conservator of Forest and IIT Bombay, pursuant to the aforementioned directions, have conducted site visits and detailed investigation.

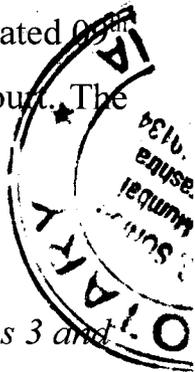
21. I thus say that the entire issue regarding cutting/ transplantation of trees in Aarey Colony is pending adjudication before the Hon'ble Supreme Court and the same is being monitored by the Hon'ble Apex Court.

22. I say that in addition to the aforementioned proceedings, a Writ Petition i.e., Writ Petition (L) 365 of 2017 was filed *inter alia* challenging the action of Respondent No. 6 for felling of trees due to the Metro Project pertaining to the areas of Churchgate, Hutatma Chowk and Cuffe Parade.

23. I say that on 09th February, 2017, the Hon'ble Bombay High Court passed an interim order restraining the parties from cutting any trees till further orders.

24. I say that the aforementioned Writ Petition was heard substantially and an Order was passed on 05th May, 2017 vacating the interim directions granted under order dated 09th February, 2017, subject to certain directions passed by the Hon'ble High Court. The operative part of the said Order is as under:

- e. Rule
- f. *The MMRCL is directed to file an undertaking in terms of paragraphs 3 and 5 of the affidavit of Mr. Ashok Bhasme, Deputy General Manager, MMRCL dated 9//2017 within a period of one week from today.*
- g. *We appoint the Member Secretary of the Maharashtra Legal Services Authority and the Deputy Registrar to oversee the compliance in regard to the re-plantation, transplantation of the trees of the undertaking as contained in paragraphs 3 and 5 of the affidavit of Mr. Ashok Bhasme, Deputy General Manager, MMRCL dated 9/3/2017 and the undertaking to be filed.*
- h. *Such compliance be reported by these offers from time to time and preferably every month to a Committee of two Hon'ble Judges of this Court as would be nominated by the Chief Justice.*
- i. *The interim prayers as made in the petitions stand rejected.*



J. S. J.

j. The petitions be listed for final disposal in the 2nd week of July, 2017.

A copy of the Order dated 05th May, 2017 is enclosed as Annexure "H".

25. I say that the aforementioned Order dated 05th May, 2017 was challenged by Ms. Nina Deepak Verma before the Hon'ble Supreme Court by way of Special Leave Petition (C) 15086 of 2017. The said Special Leave Petition was disposed of by an Order dated 18th May, 2017 giving liberty to the Petitioner to approach the Committee for redressal of their grievances. A copy of the Order dated 18th May, 2017 is enclosed as Annexure "I".

26. I say that in the aforementioned factual scenario, a Committee was formed comprising of two Hon'ble Judges of the Hon'ble Bombay High Court to oversee the compliance in connection with replantation and transplantation of trees in terms of undertaking given by Respondent No. 6.

I say that since 2017 several rounds of meetings were conducted by the Hon'ble Committee and the last meeting was held on 12th December, 2024. The final minutes / report of the Hon'ble Committee is not available with Respondent No. 6 as on date.

28. I say that the last minutes of meeting of the Hon'ble Committee, as available with the Respondent No. 6 is of the meeting held on 04th September, 2024. Even in the said meeting, the Hon'ble Committee observed as follows:

"In view of the above, the Committee is of the opinion, that the Committee is not in a position to issue direction in respect of the Aarey colony as the same is subjudice before the Hon'ble Supreme Court of India in which certain directions were issued to MMRCL, Director of IIT Bombay and the Conservator of Forest regarding the trees in Aarey Colony."

A copy of the Minutes of Meeting dated 04th September, 2024 is enclosed as Annexure "J".

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8 29. I say that the aforementioned facts demonstrate that the cutting / transplantation of trees for the remaining part of the MML-3 alignment is pending before the Hon'ble Bombay High Court. The Copy of Minutes of Hon'ble High Court Committee dated 09th October 2023 is enclosed as **Annexure "K"**, wherein the issue of transplanted and compensatory trees has been addressed.

30. I therefore say that in view of the aforesaid facts and circumstances, more particularly the fact that the aspect of cutting / replantation / transplantation of trees is *sub judice* before the Hon'ble Supreme Court (for the Car Shed Depot at Aarey Colony) and before the Hon'ble High Court (for the rest of alignment), it is humbly requested that this Hon'ble Tribunal may be pleased to delete Respondent No. 6 from the array of the parties.

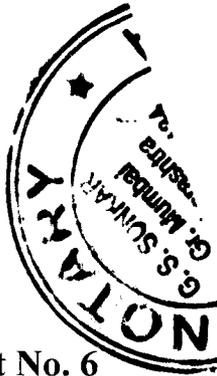
RB Banu

M/s. The Law Point

Advocates for Respondent No. 6

[Signature]

Respondent No. 6



VERIFICATION

I, **Ajay Tulshiram Fulmali**, Age- 62, working as the Advisor (Environment) of the present Respondent No.6, having my office address at 202, 2nd Floor, Hallmark Business Plaza, opp Gurunanak Hospital, Sant Dhaneshwar Marg, Bandra East, Mumbai- 400 051 do hereby solemnly state and affirm that whatever stated in the above paragraphs is true to the best of my knowledge.

Solemnly affirmed at Mumbai.

Ajay

BEFORE ME

Before me

[Signature]
G. S. SONKAR
B.A. LL.B
NOTARY GR. MUMBAI
MAHARASHTRA
(Govt of India)



Dated this 14th day of August 2025

G. S. SONKAR (Notary Govt. of India)	
NOTARIAL REGISTERED	
SR.No. 1505	2025

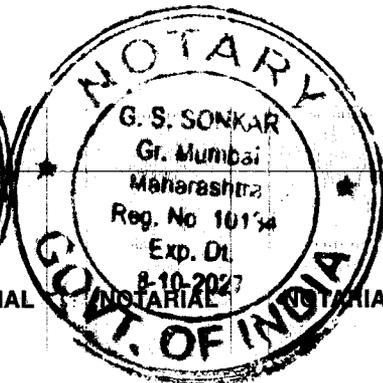
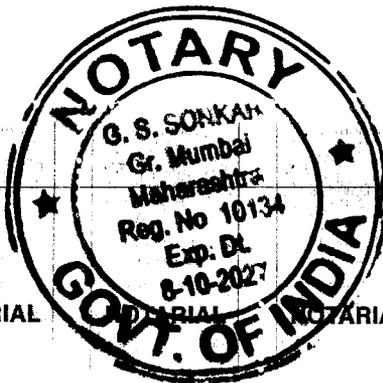
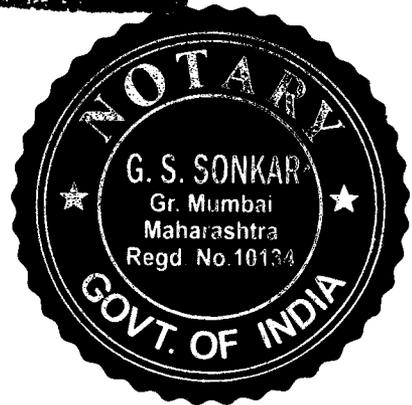
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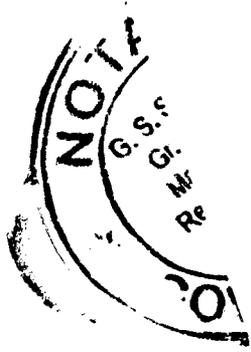
R. Basu

M/s. The Law Point

Advocate for Respondent No.6.



NOTARIAL NOTARIAL NOTARIAL NOTARIAL



SLP(C) 31178/2018

1

ITEM NO.9

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 31178/2018

(Arising out of impugned final judgment and order dated 26-10-2018 in WP No. 2766/2017 passed by the High Court Of Judicature At Bombay)

AMRITA PRITHWISHWAR BHATTACHARJEE & ANR.

Petitioners

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondents

(I.A. No. 33819/2019 - GRANT OF INTERIM RELIEF)

Date : 15-04-2019 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE SANJIV KHANNA

Petitioners

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Jatin Zaveri, AOR
Ms. Rishika A. Harish, Adv.
Mr. Mulani Sayeed Yusuf, Adv.
Mr. Neel Kamal Mishra, Adv.
Ms. Aishwarya Kane, Adv.

For Respondents

Mr. Mukul Rohatgi, Sr. Adv.
Mrs. Suchitra Atul Chitale, AOR
Ms. Tanvi Kakar, Adv.

Ms. Deepa M. Kulkarni, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

Ms. Asha Gopalan Nair, AOR
Mrs. Aruna Saula, Adv.
Ms. Priti Purandare, Adv.
Ms. Nivedita Nair, Adv.

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DEEPAK GUPTA
Date: 2019.04.15
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Reason:

UPON hearing the counsel the Court made the following

O R D E R

Having considered the stand taken by respondent

Asst

no. 4 in the affidavit, we are of the view that the prayer for interim relief as sought in the application ought to be rejected. We order accordingly.

I.A. No. 33819/2019 is accordingly dismissed.

(Deepak Guglani)
Court Master

(Anand Prakash)
Court Master



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SMWP(C) 2/2019

1

ITEM NO.301

COURT NO.4

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SUO MOTO WRIT PETITION (CIVIL) No.2/2019

RE: FELLING OF TREES IN AAREY FOREST (MAHARASHTRA)

VERSUS

Respondent(s)

Date : 07-10-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Sanjay Hegde, Sr. Adv.
Mr. Siddhartha K. Garg, Adv.

By Courts Motion

SLP Diary 14849/19

Mr. Zaman Ali, Adv.
Ms. Gunjan Singh, Adv.
Mr. Siddharth Acharya, Adv.
Mr. Ankur Kumar, Adv.
Mr. Satya Mitra, AOR

SLP Diary 36651/19

Mr. Gopal Sankaranarayanan, Sr. Adv.
Ms. Pooja Dhar, AOR
Mr. Shurtanjaya Bhardwaj, Adv.
Ms. Harish Rishika, Adv.
Mr. Neel Kamal Mishra, Adv.

WP(C) 1132/19

Dr. J.P. Dhanda, Adv.
Ms. Raj Rani Dhanda, Adv.
Mr. R.K. Gupta, Adv.

For Respondent(s)

Mr. Tushar Mehta, SG
Mr. Ashish Wad, Adv.
Mrs. Jayashree Wad, Adv.
Mr. Sidharth Mahajan, Adv.
Ms. Sukriti Jaggi, Adv.
Mr. Ajeyo Sharma, Adv.
Mr. D.L. Chidananda, Adv.
Mr. G.S. Makker, Adv.

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Date: 2019.10.07
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Reason:

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For MMRC

Mr. Maninder Singh, Sr. Adv.
 Ms. Rukhmini Bobde, Adv.
 Mr. Kumar Shashank, Adv.
 Mr. Nivesh Kumar, Adv.
 Ms. Shagufa Salim, Adv.
 Mr. Aviral Kapoor, Adv.
 Mr. Vishal Prasad, Adv.

Mr. Nishant R. Takneshwarkar, Adv.
 Mr. Nishant Sharma, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

S.L.P.(C) No.31178/2018, S.L.P.(C) Diary No.14849/2019, Writ
 Petition (C) No.1132/2019 and S.L.P(C) Diary No.36651/2019

On mentioning, these matters are taken on Board.

Tag S.L.P.(C) No.31178/2018, S.L.P.(C) Diary
 No.14849/2019, Writ Petition (C) No.1132/2019 and S.L.P(C)
 Diary No.36651/2019 with S.M.W.P. (C) No.2/2019, for being
 heard together.

SUO MOTO WRIT PETITION (CIVIL) No.2/2019

We have heard learned counsel for the parties at
 length.

It is pointed out from the record of S.L.P.(C)
 No.31178 of 2018, as seen from the Management Plan for Sanjay
 Gandhi National Park, Borivali, Mumbai, some of the areas of
 the Aarey Milk Colony were transferred to revenue lands from
 the un-classed forests. However, identity of the area is to
 be established by the petitioners, though, it was orally
 stated that the area in question fell in the un-classed
 forest. Be that as it may.

Shri Tushar Mehta, learned Solicitor General
 appearing for the State of Maharashtra has stated that they

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are not going to cut any further trees till the next date of hearing. In the circumstances, the statement is quite fair. It is stated by Mr. Mehta that the incumbents who have been arrested have been released. It is further submitted that in case anybody has not been released so far, he/she be released immediately on furnishing personal bond. Let the statement made be carried out in pith and substance.

Parties may exchange the documents in the meantime. As prayed for jointly by the learned counsel for the parties, list these matters before the Forest Bench on 21st October, 2019, as the said Bench is hearing the matter pertaining to the similar issues in T.N. Godhavarman's case.

As undertaken, *status quo* be maintained till the next date of hearing with respect to cutting of trees.



(Chetan Kumar)
A.R. - cum - P.S.

(Sunil Kumar Rajvanshi)
Court Master

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MOST URGENT

ITEM NO.301 + 309

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SMW (C) No. 2/2019

IN RE FELLING OF TREES IN AAREY FOREST
(MAHARASHTRA)

Petitioner(s)

VERSUS

Respondent(s)

WITH

SLP(C) No. 31178/2018 (IX)

(IA No. 48960/2019 - CLARIFICATION/DIRECTION
IA No. 48969/2019 - INTERVENTION/IMPLEADMENT)

SLP(C) No. 14933/2019 (IX)

(FOR ADMISSION and I.R. and IA No.75720/2019-CONDONATION OF DELAY
IN FILING and IA No.75721/2019-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.75719/2019-PERMISSION TO FILE PETITION
(SLP/TP/WP/..) and IA No.75723/2019-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 1132/2019 (PIL-W)
(FOR ADMISSION)

with

SLP (C) No. 24849 of 2019 (Item No. 309)
(for admission and IR and exemption from filing c/c of the impugned
Judgment and exemption from filing O.T.)

W.P. (C) No. 1283 of 2019
(for admission and appropriate orders/directions)

SLP (C) No. 24958 of 2019
(for admission and IR and exemption from filing c/c of the impugned
Judgment and permission to file lengthy list of dates and
permission to file additional documents/facts/annexures)

Validity unknown

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JAYANT KUMAR MISHRA
Date: 20/10/2019
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Reason: []

: 21-10-2019 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE DEEPAK GUPTA

Counsel for the
parties

Mr. Tushar Mehta, Solicitor General
Mr. Manoj Wad, Adv.
Mr. Ashish Wad, Adv.
Ms. Aruna Savla, Adv.
Mrs. Jayashree Wad, Adv.
Ms. Preeti Purandare, Adv.
Mr. Sidharth Mahajan, Adv.
Ms. Sukriti Jaggi, Adv.
Mr. Ajeyo Sharma, Adv.
M/S. J S Wad And Co, AOR

Mr. Mukul Rohtagi, Sr. Adv.
Mrs. Suchitra A. Chitale, Adv.
Ms. Jayatri Chitale, Adv.
Ms. Tanvi Kakar, Adv.

Mr. Maninder Singh, Sr. Adv.
Mr. Kumar Shashank, Adv.
Ms. Rukhmini Bobde, Adv.
Mr. Aviral Kapoor, Adv.
Mr. Nivesh Kumar, Adv.
Ms. Shaguta Salim, Adv.
Mr. Vishal Prasad, Adv.

Mr. Shyam Divan, Sr. Adv.
Mr. Gopal Sankaranarayan, Sr. Adv.
Mr. Jatin Zaveri, Adv.
Ms. Rishika Harish, Adv.
Mr. Sidharth Acharya, Adv.
Mr. Neel Kamal Mishra, Adv.
Ms. Pooja Dhar, Adv.
Mr. Shurtanjaya Bhardwaj, Adv.
Ms. Gayatri Verma, Adv.

Mr. Sanjay Hegde, Sr. Adv.
Mr. Siddharth K. Garg, Adv.
Ms. Swati Setia, Adv.
Mr. Abhijit Banerjee, Adv.
Mr. Aditya Kumar Dubey, Adv.
Mr. Devvrat, Adv.

Mr. Colin Gonsalves, Sr. Adv.
Ms. Anitha Shenoy, Sr. Adv.
Ms. Gayati Singh, Sr. Adv.
Ms. Gunjan Singh, Adv.
Mr. Sahil Sheoran, Adv.
Mr. Siddharth Acharya, Adv.
Mr. Satya Mitra, Adv.
Mr. Zaman Ali, Adv.
Ms. Srishti Agnihotri, Adv.
Ms. Sanjana Grace Thomas, Adv.



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Mr. Debasis Misra, Adv.
 Mr. Vishaal S. Jogdand, Adv.
 Mr. Binay Kumar Jha, Adv.
 Mr. Suhas Kadam, Adv.
 Mr. Sreyas Gacche, Adv.
 Mr. Paul Kanak Raj, Adv.
 Mr. Jagdev, Adv.
 Ms. Pareena Swarup, Adv.
 Dr. Sanatan Ray Chaudhari, Adv.
 Mr. R. Sharath, Adv.
 Mr. Manav, Adv.
 Mr. Rajnish Kumar, Adv.
 Mr. Nanita Sharma, Adv.
 Ms. Meera Bhatia, Adv.
 Chaudhary Samsuddin Khan, Adv.
 Mr. Jay Prakash Somani, Adv.
 Ms. Alpana Sharma, Adv.

Mr. Siddharth Acharya, Adv.
 Mr. Hitesh Mankar, Adv.
 Mr. Ankur Kumar, Adv.
 Ms. Megha Sharma, Adv.
 Ms. Shrishti Agnihotri, Adv.
 Mr. Jatin Zaveri, Adv.

Dr. J. P. Dhanda, Adv.
 Mrs. Raj Rani Dhanda, Adv.
 Mr. Vineet Dhanda, Adv.
 Mr. N. A. Usmani, Adv.

Mr. Preshit Vilas Surshe, Adv.
 Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Tanmaya Agarwal, AOR

UPON hearing the counsel the Court made the following
 O R D E R

Sh. Tushar Mehta, learned Solicitor General appearing on behalf of the Municipal Corporation, Mumbai, has prayed for time to submit response to the petitions, which have been filed. We have requested the learned Solicitor General to place on record as to what other activities are proposed in Aarey Forest Area, is there any project of construction of the building in the offing, or has been sanctioned.

We have also requested Mr. Maninder Singh and Mr. Mukul



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Rohtagi, learned senior counsel appearing on behalf of Mumbai Metro (BMRC) to produce the photographs of the trees and number of surviving trees which were planted two years ago, the girth of the trees as well as their height. The same shall be produced before the Court by way of an affidavit. It shall also be clearly stated in the affidavit as to what is the survival rate of the transplanted trees and how many have survived till date. Let the figures be stated.

It is also stated by Mr. Tushar Mehta, learned Solicitor General, that they are not cutting any more trees in the Aarey Colony, i.e. in the area which is not covered by the BMRC project. The statement is placed on record.

List on 15.11.2019.

Interim order granted by this Court on 07.10.2019 shall continue till the next date of hearing.

Let the standing counsel for the State of Maharashtra be served with a copy of the petition, if not already served. Let the reply to the petition(s) be filed in the meantime.

(JAYANT KUMAR ARORA)
COURT MASTER

(PRADEEP KUMAR)
COURT MASTER



Reportable

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

IA No 169860 of 2022 in Suo Moto Writ (Civil) No 2 of 2019

IN RE FELLING OF TREES IN AAREY FOREST (MAHARASHTRA)

WITH

IA Nos 104736, 104886 of 2022 and 178233 of 2019 in

SMW(Civil) No 2 of 2019

IA No 105220 of 2022 in

SLP(Civil) No 14933 of 2019 and

IA Nos 107131 and 50314 of 2022 in

SLP(Civil) No 31178 of 2018

Validity unknown

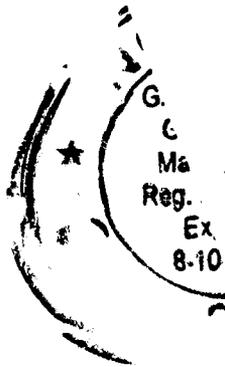
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Sanjay Kumar
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JUDGMENT**Dr Dhananjaya Y Chandrachud, CJI**

1. On 15 April 2019, this Court, while considering Petition for Special Leave to Appeal (Civil) No 31178 of 2018, declined to grant interim relief in IA No 33819 of 2019. The reliefs which were sought in the application for interim relief were in the following terms:

- "a) ... stopping all activities being carried out by the Respondent No-4 on the land in question inside Aarey Colony;
- b) ... directing the Respondents to carry out the activities for setting up Metro Car depot at the alternative sites referred to in paragraph 3 of the present application;
- c) ... staying the operation of the observations made at page 92 of the impugned order to the effect that Aarey Milk Colony area cannot be referred to as forest; and
- d) ... any other order or further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."



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2. Subsequently, on 7 October 2019, this Court, while entertaining a Suo Moto Writ Petition¹, passed an order recording the statement of the Solicitor General appearing on behalf of the State of Maharashtra that no further trees were being felled till the next date of listing.
3. On 5 August 2022, this Court directed that all the connected writ petitions and Special Leave Petitions could be listed for final disposal. No specific interim directions were issued in view of the position of Mumbai Metro Rail Corporation Limited² that no further trees had been felled since the order dated 7 October 2019 and none be cut till the next date of hearing.

The position in regard to the permissions which have been sought for the felling of trees in respect of the proposed depot at Aarey for Metro Line – 3 has been summarized in a plan which has been placed on the record by the Solicitor General. The position is elucidated below:

A Car Depot

- (i) Permission applied on 21 July 2017;
- (ii) Permission granted by the Tree Authority on 13 September 2019;
- (iii) Trees permitted to be cut – 2185; and
- (iv) Actual number of trees cut – 2144.

B Ramp area

- (i) Permission applied on 6 September 2017;
- (ii) Permission granted by the Tree Authority on 6 July 2018;

1 Suo Moto Writ Petition (Civil) No 2 of 2019
2 MMRCL



- (iii) Trees permitted to be cut – 235; and
- (iv) Actual number of trees cut – 212.

C Shunting area

- (i) Permission applied on 11 February 2019;
- (ii) Total number of trees affected – 84; and
- (iii) Grant of permission awaited.

5. The IA which has been moved by MMRCL³ is for permission to enable it to move the Tree Authority for the felling of 84 trees required for the purpose of proceeding with the shunting segment of the Aarey car depot. For convenience of reference the relief which has been sought in IA moved by MMRCL is extracted below:

“a) Direct/permit the Tree Authority to decide the application dated 11.02.2019 filed by MMRCL pending before it and pass final order thereof with respect to cutting of the 84 trees under The Maharashtra (Urban Areas) Protection and Preservation of Trees Act 1975 located on Metro Car Shed Land at Aarey Colony admeasuring approximately 33 hectares for the Mumbai Metro Line-3 project in Mumbai and permit, MMRCL to implement such decision of the Tree Authority, as the case may be;”

6. Apart from the IA which has been moved by MMRCL, this Court is seized of the

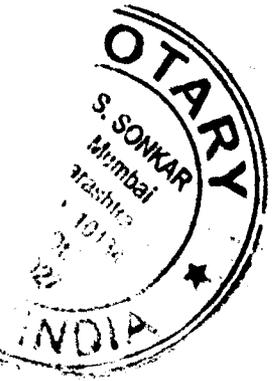
3 IA No 169860 of 2022 in Suo Moto Writ Petition (Civil) No 2 of 2019



following IAs:

- i. IA No 104886 of 2022 in Suo Moto Writ Petition (Civil) No 2 of 2019 seeking, *inter alia*, that (a) the order dated 21 July 2022 issued by the Urban Development Department of the Government of Maharashtra be kept in abeyance as it permits work on the car depot at Aarey, (b) the Government of Maharashtra submit the Wildlife report on the Aarey Car Shed plot and to grant protection to wildlife on the said plot and declare the area as a forest;
- ii. IA No 178233 of 2019 in Suo Moto Writ Petition (Civil) No 2 of 2019 seeking *inter alia*, the issuance of directions to the Government of Maharashtra to declare Aarey as a forest and direct that no trees be cut;
- iii. IA No 107131 and IA 50314 of 2022 in Special Leave Petition (Civil) No 31178 of 2018 seeking, *inter alia*, a direction restraining the respondents from carrying out all work of construction within the 33 hectares area implicating the Aarey car project;
- iv. IA No 105220 of 2022 in Special Leave Petition (Civil) No 14933 of 2019 for restraining the respondents from carrying out any consequential activities, including clearing of plants, excavation of vegetation or proceeding with any construction.

7. In order to appreciate the salient facts insofar as they pertain to the IAs before this Court, it would be appropriate, at this stage, to advert briefly to the course of events.
8. On 6 January 2021, the Government of Maharashtra constituted a committee chaired by the Chief Secretary for examining whether the proposed car depot at



Aarey should be realigned and relocated. The Committee submitted its report on 21 January 2021. The Committee was of the considered view that the location of the car depot at Aarey should be realigned so that an integrated car depot would be set up both for Metro Lines – 3 and 6 at Kanjurmarg. The report of the Committee was accepted by the State Government on 23 March 2021.

9. On 17 March 2022, the Union Government in the Ministry of Housing and Urban Affairs addressed a communication to the Chief Secretary of the Government of Maharashtra, following a meeting which was convened on 23 September 2021 between the Ministry and the officials of the State Government “to discuss the Aarey depot issue which is seriously hampering the progress of Metro Line-3 project”. The letter recorded that a decision was taken that Delhi Metro Rail Corporation⁴ and M/s SYSTRA, the consultant appointed by MMRDA, would hold a meeting to sort out technical issues in the event that the depot was shifted to Kanjurmarg. Thereafter, following the meetings between DMRC and SYSTRA, DMRC submitted a report on 11 February 2022. Both DMRC and SYSTRA have agreed that there are ‘inherited’ operational and maintenance constraints in the proposal to have a common depot for two or more lines at Kanjurmarg. Some of the major observations in the report are summarized in the communication dated 17 March 2022 and are extracted below:

“(i) The simulation exercise done by M/s SYSTRA is incomplete as no simulation internal to depot has been

done. M/s SYSTRA had informed that simulation internal to depot may require involvement of signalling contractor, which was beyond their scope of work. Thus, it could not be checked by DMRC that proposed plan of induction of trains from depot could really materialise or not. DMRC has recorded their own experience that inducting trains from the depot consistently at a frequency of 4 minutes continuously for 3 or more hours is a challenging task.

- (ii) There is a compromised time of maintenance window due to running of Line-3 trains for 7.5 km on Line-6 network upto Kanjurmarg. This will also have an adverse impact on restoration time in the event of failure of Line-3 train during regular operation period.
- (iii) There is sub optimal utilization of trains as at least two trains are to be kept as hot standby at SEEPZ village station.
- (iv) 100% punctual operation throughout the trips all the time in a day is rarely possible in real life operations as lot of factors affect train movement. Any deviation in train movement will lead to detention at L-3 & 6 connections while transferring of trains between L-3 & 6. Thus, the detention of trains mid-section seems real and unavoidable.

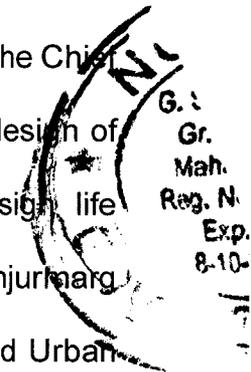


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- (v) There is a requirement of same signalling system from the Line-3 supplier for Line-6 and thus related compulsions.”

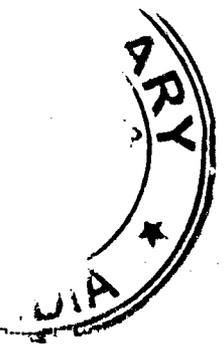
10. In the above backdrop, the communication of the Union Ministry of Housing and Urban Affairs noted that the proposed integration of two lines at SEEPZ village station would be a permanent risk to reliable train operations of both the lines. DMRC's report had suggested that the decision to adopt an integrated depot for Metro Lines – 3 and 6 should be taken only if it is absolutely unavoidable even with possible mitigation measures in the present plans at Aarey. The communication also records that the conclusion of the report of the Committee chaired by the Chief Secretary to the Government of Maharashtra that the current land and design of the depot at Aarey would be insufficient to cater to the project design life requirement of Line-3, thereby necessitating an alternative location at Kanjurmarg is factually incorrect. In the opinion of the Union Ministry of Housing and Urban Affairs, the land at Aarey is sufficient to meet the current and projected requirement up to 2055 and, hence, it would not be prudent to shift the location to Kanjurmarg at the present stage of the project. Moreover, it has been stated that:

- (i) The project is in a significantly advanced stage of completion;
- (ii) The combined depot plans will introduce operational and maintenance bottlenecks in the functioning of the network for the entire lifecycle of a high capacity metro line; and
- (iii) While the land at Aarey is free from encumbrances, the land at Kanjurmarg is under litigation.



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11. Consequently, the State Government was requested to reconsider its decision to shift the depot of Line-3 from Aarey colony to Kanjurmarg and to allow the restarting of the depot work of Line-3 at Aarey colony for expeditious completion of the project in public interest.
12. Responding to the above communication, the State Government has on 21 July 2022 taken a decision to allow the work of the Metro Car Depot at Aarey to proceed.
13. Appearing on behalf of MMRCL, the Solicitor General has highlighted that:
 - (i) The overall cost of the Metro project ranges in the vicinity of Rs 23,000 crores, which is now projected to escalate to Rs 37,000 crores;
 - (ii) Nearly 95 per cent of the project work has been completed;
 - (iii) Permission had already been granted for the felling of 2,185 trees envisaged in the segment pertaining to the car depot and 235 trees for the segment pertaining to the ramp, while, permission has been sought of this Court to move the Tree Authority for the felling of 84 trees which would be occasioned in the segment pertaining to shunting; and
 - (iv) Having regard to the overall contours of public interest bearing on the project, the orders passed by this Court on 7 October 2019 and 5 August 2022 may be clarified to the extent that MMRCL may be allowed to move the Tree Authority for the grant of felling permission.
14. While opposing these submissions, Mr C U Singh and Ms Anitha Shenoy, senior counsel, have urged that apart from rejecting the relief which has been sought by



MMRCL, there are valid grounds for this Court to not allow the decision of the State Government which was taken on 21 July 2022 to allow the car depot project at Aarey to proceed. It has been urged that:

- (i) The decision which has been taken on 21 July 2022 amounts to a reversal of a considered view which was taken by the State Government on 23 March 2021, while accepting the report of the Expert Committee chaired by the Chief Secretary dated 21 January 2021;
- (ii) The decision of the Committee was based on cogent considerations, including the fact that the capacity of the proposed car shed at Aarey would be exhausted in 2031 leading to a further need for the felling of approximately 1000 trees should an expansion proposal be taken up in the future;
- (iii) Once a considered decision was taken by the State Government to accept the report of the Committee chaired by the Chief Secretary, there was no valid basis to rescind the decision in the absence of scientific material which would indicate that a contrary view was more desirable; and
- (iv) The area in question is sensitive ecologically having due regard to its proximity to the Sanjay Gandhi National Park, which is rich in bio-diversity.

15. Ms Anitha Shenoy, senior counsel, while buttressing the above submissions, urged that the project involving the construction of a Metro Line has high pollution potential falling within the red category. Moreover, it was submitted that on 12 October 2020, a notification has been issued under which 286 hectares of land have been notified as forests. Senior counsel submitted that, in this backdrop, the



decision of the State Government to the effect that full capacity utilization of the car shed at Aarey would be reached in 2031 necessitated the realignment of the car shed at Kanjurmarg. Hence, it was urged that there was no valid basis for the State Government to rescind its decision.

16. While analyzing the merit of the rival submissions, it must, at the outset, be noted that the validity of the judgment dated 26 October 2018 and of the two judgments dated 4 October 2019 would fall for determination when the Special Leave Petitions are taken up for final disposal.

This Court, by an order dated 15 April 2019, declined to grant interim relief. At that stage, when the Court proceeded to decline interim relief, the State Government had filed its affidavit indicating the inherent public interest involved in the execution of the project. In regard to the alternate site, the affidavit of the State Government explained that in November 2011, a detailed project report for the Metro corridor had been prepared. A six-Member Technical Committee chaired by the Metropolitan Commissioner, MMRDA was constituted to consider alternate sites. The Technical Committee submitted its report on 11 August 2015 and considered the various sites, including the following:

- "a) Backbay Reclamation, Colaba
- b) Mumbai Port Trust
- c) Mahalaxmi Race Course
- d) Dharavi
- e) Bandra Kurla Complex
- f) Mumbai University, Kalina



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- g) Aarey Colony
- h) Sariput Nagar
- i) Kanjur Marg.”

18. In its affidavit, the State Government submitted that after considering the options above, the Committee found that three sites at or beyond the terminal points meet the requirements. Thereafter, the Technical Committee submitted its report recommending as follows:

- “i) The Metro-III car-depot be located at Kanjur Marg, with only a small stabling unit at Aarey Depot;
- (ii) In case the land was not made available at Kanjur Marg within a period of three months then the car-depot was proposed to be located at Aarey Colony within a 20.82 hectare area; and
- (iii) Measures would have to be taken to mitigate environment damage at Aarey Colony.”

19. The report of the Technical Committee was accepted by the State Government on 16 October 2015. The State Government explained the steps which were taken thereafter pursuant to the report of the Technical Committee. This Court, after having considered the application for interim relief, considered it appropriate to decline relief.



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20. Now, it is in this backdrop that this Court must consider as to whether it ought to permit the Tree Authority to decide the application dated 11.02.2019 filed by MMRCL for felling of 84 trees. Alternatively, there is a wider relief which has been sought in the companion IAs that no part of the Aarey car shed should be allowed to proceed pending the final disposal of the proceedings.
21. In such projects involving large outlay of public funds, the Court cannot be oblivious to the serious dislocation which would be caused if the public investment which has gone into the project were to be disregarded. Undoubtedly, considerations pertaining to the environment are of concern because all development must, it is well settled, be sustainable.



The State Government which had taken a decision in the first place to accept the Technical Committee report in 2015, later on, changed its view while deciding upon the realignment of the Metro car project at Kanjurmarg. Subsequently, various aspects were pointed out to the State Government by the communication dated 17 March 2022 of the Union Ministry of Housing and Urban Affairs. At this stage, it cannot be gainsaid that the factors which have been set out in the communication dated 17 March 2022 cannot be disregarded. Having regard to the entirety of the material before it, if the State Government has come to the conclusion that the original decision to allow the Metro car depot for Metro Line-3 be located at Aarey has to be restored, it would not be possible for the Court at the interim stage to stay the decision



22. Moreover, it must also be noted that a substantial number of trees pertaining to the area which falls within the segment of the car shed and the ramp have already been felled. Consequently, this Court was apprised on 7 October 2019 and 5 August 2022 that no further trees were required to be felled. As already noted earlier, 2,144 trees were felled in executing the work pertaining to car depot, while, 212 trees were felled in connection with the work of the ramp. What is now sought is permission to apply to the Tree Authority for the felling of 84 trees pertaining to the ramp. It needs no emphasis that without a ramp the work which has already been completed would be of no consequence and would be wholly ineffective. Hence, having due regard to the above circumstances, we have arrived at the conclusion that MMRCL should be permitted to pursue its application before the Tree Authority for the permission to fell 84 trees for the purpose of the ramp. We clarify that the Tree Authority would be at liberty to take an independent decision on the application and determine what conditions, if any, should be imposed if it decides to grant its permission.
23. The order of this Court, which has the effect of directing the preservation of *status quo* on the felling of trees, shall accordingly stand modified to the above extent thereby permitting the MMRCL to move the Tree Authority on its application for felling of 84 trees. The state government would be at liberty to proceed further.



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24. The IAs are accordingly disposed of.
25. The entire batch of petitions would be listed for hearing and final decision on 7 February 2023.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]



New Delhi;
November 29, 2022

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Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

IA No 68608 of 2023

in

Suo Moto Writ (Civil) No 2 of 2019

In Re: Felling of Trees in Aarey Forest (Maharashtra)

J U D G M E N T

Dr Phananjaya Y Chandrachud, CJI

1 Mumbai Metro Rail Corporation Limited¹ seeks a clarification of the order of this Court dated 29 November 2022. By the order of this Court, MMRCL was permitted to move the Tree Authority for felling 84 trees. MMRCL submits that 177 trees have to be felled or, as the case may be, transplanted for the Metro Car Shed Land at Aarey Colony admeasuring approximately 33 hectares for Mumbai Metro Line-3. Permission is hence sought to implement the permission which has been granted on 15 March 2023 by the Superintendent of Gardens of the Municipal Corporation of Greater Mumbai for felling 124 trees and transplanting 53 trees.

Validity unknown

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Date: 2023.04.16
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Reason:

1 "MMRCL"

Dr. Chandrachud

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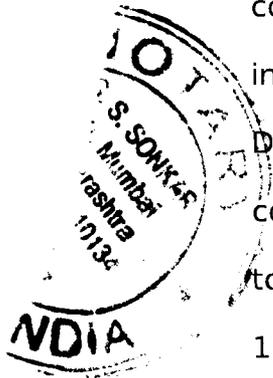
- 2 By the order of this Court dated 29 November 2022, an earlier order directing the preservation of the *status quo* on felling trees was modified, so as to permit MMRCL to move the Tree Authority on its application for felling 84 trees. Following the order of this Court, an application was initially moved on 19 December 2022 for permission to fell 84 trees. On 2 January 2023, MMRCL, however, sought permission to cut 185 trees, without moving this Court.
- 3 By a communication dated 20 December 2022, the Deputy Superintendent of Gardens intimated the Deputy General Manager (Depot) of MMRCL that the site was jointly inspected by his staff, together with the representatives of MMRCL on 19 December 2022. Following the inspection, the Deputy Superintendent of Gardens sought compliance on the following aspects:
- “1. Submit updated proposal for the current status of trees as per a fresh survey.
 2. Mention missing/dead/fallen trees and also any new addition to the list of affected trees as a long period has lapsed since the last survey.
 3. Number all such trees on the sites with black and white paint;
 4. Submit details of land where the trees are to be proposed for transplantation and compensatory plantation.”
- 4 On 12 January 2023, the Superintendent of Gardens issued a public notice indicating that 185 trees would be affected of which 124 trees would be felled and 53 trees would be transplanted.



5 Since the action proposed was in excess of the 84 trees which were permitted to be felled by the order of this Court, a public interest litigation² was moved before the High Court of Judicature at Bombay. The Division Bench, by its order dated 9 March 2023, observed:

“Public Notice has been issued by the Tree Authority. The Petitioner has already raised objection before the Tree Authority. The Petitioner can bring it to the notice of the Tree Authority, the order of the Apex Court. No final order has been passed by the Tree Authority. It is for the Tree Authority to consider whether those trees beyond 84 were shrubs or otherwise.”

6 On 15 March 2023, the Superintendent of Gardens and Tree Officer granted permission for felling 124 trees and transplanting 53 trees, subject to the condition that 1533 trees would be planted on the property. This led to the institution of another public interest litigation³ before the High Court. The Division Bench, by its order dated 31 March 2023, observed and, in our view, correctly, that this Court had granted permission to move the Tree Authority only to the extent of 84 trees. Hence, the permission which was granted in respect of 177 trees was beyond the permission granted by this Court on 29 November 2022. The High Court held that propriety would require that trees shall not be felled in pursuance of the order dated 15 March 2023 until a clarification was sought from this Court. It is in view of the above factual background, that the application for clarification has been filed by MMRCL.



² “Public Interest Litigation (L) No 2169 of 2023

³ Public Interest Litigation (L) No 8655 of 2023

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7 We have heard Mr Tushar Mehta, Solicitor General appearing on behalf of MMRCL, Mr Dhruv Mehta, senior counsel appearing on behalf of the Municipal Corporation, and Mr C U Singh and Mr Gopal Sankaranarayanan, senior counsel appearing on behalf of the respondents.

8 At the outset, the Court must take notice of the fact that when the order dated 29 November 2022 was passed, it was on the specific request of MMRCL that it should be permitted to pursue its application before the Tree Authority for permission to fell 84 trees for the purpose of the work of the ramp. The Court modified the earlier order of *status quo* which held the field, to the above extent. If the number of trees that are required to be felled was in excess of the permission which was granted by this Court, to move the Tree Authority to fell 84 trees, propriety required that an application had to be moved before this Court for its permission and for modification of its order dated 29 November 2022. Instead, it appears from the record that though initially the application was made for felling 84 trees, subsequently, a stand was adopted that actual number of trees would be in excess of what was originally envisaged.

9 As a matter of fact, it would be necessary to refer to the affidavit which was filed by the Chief Project Manager of MMRCL before the High Court of Judicature at Bombay in which the following averments were incorporated:

"24) In the aforesaid and such other relevant background of facts, in the humble submission of this Respondent, the number of trees that are required to be felled is an aspect which is incidental to the proposal which is pending for consideration before the first Respondent in respect of which the Hon'ble Supreme Court has granted liberty to the present Respondent to pursue, which is



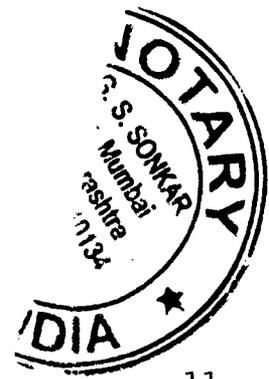
being done by the present Respondent. I therefore say that not permitting the answering Respondents to prosecute the present application in issue covering more number of trees over and above the number of trees incidentally mentioned in the aforesaid order of the Hon'ble Supreme court, in fact would amount to frustrating the said order and/or preventing its implementation in its true letter and spirit.

- 26) I hasten to state that if the contention of the Petitioner is accepted that will in fact amount to causing impediment in the effective implementation of the order of the Hon'ble Supreme Court. At this juncture, it also will be apposite to consider the well settled principle of law that the Judgment of the Hon'ble Supreme Court and/or of this Hon'ble Court cannot be read as a statute. I say that the Petitioner wants this Hon'ble Court to read the order of the Hon'ble Supreme Court as a statute, which is impermissible."

- 10 The above averments in the affidavit which was filed by MMRCL indicate that it was well aware of the fact that the order of this Court continued to operate. MMRCL sought to justify its application for felling of trees in excess of what was permitted by the specific directions of this Court. Such an exercise was clearly not contemplated in the order of this Court. We are constrained to observe that MMRCL has made an attempt to overreach the jurisdiction of this Court.

- 11 The issue which, however, needs to be considered in the application for clarification is whether permission should be granted in terms of the order which has been passed by the Superintendent of Gardens.

- 12 In the IA for clarification, it has been submitted that subsequent to the order of 29 November 2022, a joint inspection took place on 19 December 2022 between the officers of the Municipal Corporation and MMRCL since a period of



approximately three years and ten months covering four monsoon seasons had elapsed from the date of the previous inspection which took place on 20 March 2019. It has been stated that in the course of the joint inspection, it was found that some trees were "missing/dead/fallen" and additional plants and trees had grown since the date of the previous inspection. Hence, it has been sought to be urged that the updated number of affected trees were estimated at 185, pursuant to which a public notice notice was issued by the Tree Authority on 12 January 2023.

13 The Solicitor General, while adverting to the contents of the IA, also submitted that a compilation of relevant documents was placed on the record of this Court on 5 April 2023.

14 On the other hand, it has been submitted by Mr C U Singh and Mr. Gopal Sankaranarayanan that a survey was conducted in 2020 and, as a matter of fact, it was based on the survey that MMRCL had sought permission to prune a certain number of trees and to fell 84 trees. Senior counsel submitted that this Court permitted MMRCL to move the Tree Authority specifically with reference to the proposal for 84 trees. In other words, it has been urged before this Court that the fresh proposal which was made before the Tree Authority after the order of this Court dated 29 November 2022 was clearly not *bona fide* having due regard to the events which had transpired, resulting in the order of this Court.

15 It was improper on the part of MMRCL to move the Tree Authority for the felling of any trees in excess of 84 trees. If circumstances had transpired which led to a variation in the number of trees to be cut, the only correct course of action

would have been to move this Court. We are, hence, of the view that it would be necessary for the Court to penalize MMRCL for its conduct. Having said that, the issue is as to whether the permission which has been granted on 15 March 2023 should be stayed by the Court, at the present stage. Any such direction will have the consequences of bringing the public project to a standstill. Such a course of action would not be desirable. As the Court noted in its previous order, substantial steps have already been taken by felling over 2000 trees for the purpose of the project. In this backdrop, we modify the previous order by permitting MMRCL to act in compliance with the order dated 15 March 2023. However, this shall be subject to the following directions:



- (i) MMRCL shall, within a period of two weeks, deposit an amount of Rupees Ten Lakhs with the Conservator of Forests;
- (ii) The Conservator of Forests shall ensure that all directions which have been contained in the previous orders of the Tree Authority for afforestation have been duly complied with;
- (iii) The Conservator of Forests shall submit a report before this Court indicating the status of compliance in regard to the directions which have been issued up-to-date for afforestation and for transplantation of trees; and
- (iv) In order to enable this Court to have objective assistance in regard to the compliance of the directions for afforestation, we request the Director of IIT Bombay to depute a team for the purpose of verifying

41

compliance. A report shall accordingly be submitted before this Court within a period of four weeks. The costs, charges and expenses payable shall be borne by MMRCL.

16 The IA is accordingly disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]

.....
[J B Pardiwala]

New Delhi;
April 17, 2023
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ITEM NO.8

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA 68608/2023 in SMWP (Civil) No.2/2019

IN RE: FELLING OF TREES IN AAREY FOREST (MAHARASHTRA)

(IA No. 68608/2023 - CLARIFICATION)

Date : 17-04-2023 This application was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s)

By Courts Motion, AOR

For Respondent(s)

Mr. Tushar Mehta, Sr. Adv.
Mr. Chirag Shah, Adv.
Ms. Rukhmini Bobde, Adv.
Ms. Soumya Priyadarshinee, Adv.
Mr. Ankit Ambasta, Adv.
Mr. Amit Kumar Shrivastava, Adv.
Mr. Amlaan Kumar, Adv.
Mr. Vishal Prasad, AOR

Mr. Shyam Divan, Sr. Adv.
Mr. Gopal Sankaranarayan, Sr. Adv.
Ms. Pooja Dhar, AOR
Mr. Tushad Kakalia, Adv.
Mr. Sudipto Sarkar, Adv.
Ms. Aditi Gupta, Adv.

Mr. Dhruv Mehta, Sr. Adv.
Mr. Ashish Wad, Adv.
Mr. Sandip Patil, Adv.
Mr. Sidharth Mahajan, Adv.
Mr. Ajeyo Sharma, Adv.
Mr. Shyam Agarwal, Adv.
M/S. J S Wad And Co, AOR



43

Mr. Maninder Singh, Sr. Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Mr. Shree Pal Singh, AOR

Mr. C.U. Singh, Sr. Adv.
Ms. Anitha Shenoy, Adv.
Ms. Srishti Agnihotri, AOR
Ms. Sanjana Thomas, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The IA is disposed of in terms of the signed reportable judgment.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(Signed reportable judgment is placed on the file)

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR



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FOR THE CHIEF JUSTICE OF INDIA

SECTION PIL (WRIT)

**IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)**

SMW (CIVIL) NO. 02 OF 2019
(Under Article 32 of the Constitution of India)

IN RE: FELLING OF TREES IN ARREY FOREST (MAHARASHTRA)

SUBMISSION OF VERIFICATION REPORT
FROM IIT BOMBAY



BY: DR. K.V. REGHUTHAMAN, ACTING REGISTRAR

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FROM THE CHIEF JUSTICE OF INDIA

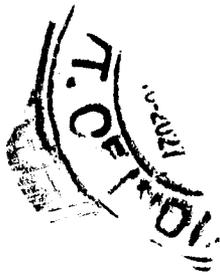
SECTION PIL (WRIT)

**IN THE SUPREME COURT OF INDIA
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SUBMISSION OF VERIFICATION REPORT
FROM IIT BOMBAY



BY: DR. K.V. REGHUTHAMAN, ACTING REGISTRAR

Dr. K.V. Reghuthaman



भारतीय प्रौद्योगिकी संस्थान मुंबई
पवई, मुंबई - 400 076, भारत

Indian Institute of Technology Bombay
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दूरभाष/Phone : (+91-22) 2572 2545

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वेबसाईट/Website : www.iitb.ac.in

IIT Bombay

By E-Mail / Speed Post

REG/M-18/SCGI/2023
12th June, 2023

To,
The Registrar,
Supreme Court of India,
Tilak Marg, New Delhi - 110001
E-Mail: supremecourt@nic.in

Subject - Submission of Verification report

Ref:

- Letter No. D. No. 36650/2019/SCPII (WR11) dated 20th April 2023 of Assistant Registrar Supreme Court addressed to the Director IIT Bombay.
- Hon'ble Supreme Court Order dated 17th April, 2023 in IA No. 68608 of 2023 in Suo Moto Writ (Civil) No. 2 of 2019
- IIT Bombay's Letter (Registrar Office /Reply/2023) dated 1st May, 2023 and 17th May, 2023

Sir.

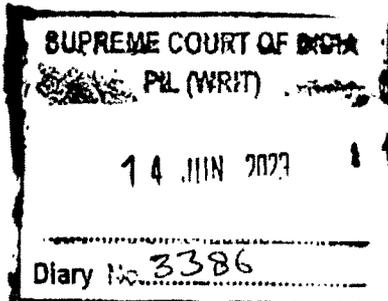
With reference to the above communications, please find enclosed herewith the verification report submitted by the team of experts constituted by IIT Bombay as per the directives of Hon'ble Supreme Court, for your information and necessary action, please.

Kindly acknowledge receipt.

With regards,



K. V. Reghuthaman
(Dr. K. V. Reghuthaman)
Acting Registrar



Sundar

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भारतीय प्रौद्योगिकी संस्थान मुंबई
पवई, मुंबई-400 076, भारत
Indian Institute of Technology Bombay
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वेबसाइट/Website www.iitb.ac.in

IIT Bombay

8th June 2023

To,

The Registrar
Supreme Court of India
New Delhi

Subject: Submission of Verification report

Reference: Suo Moto Writ (Civil) No 2 of 2019 (IA No 68608 of 2023) on felling of trees in Aarey Forest (Maharashtra) for the metro rail project)

Respected Sir/ Madam:

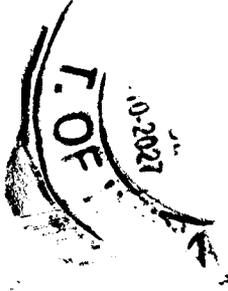
With reference to the above subject matter, please find our Verification report. In the end, concluding remarks are provided. The report contains total 14 pages (excluding cover letter and including Annexure-I & II).

Please acknowledge the receipt of the same.

Prof. Anurag Garg
Environmental Science &
Engineering Department

Prof. P. Vedagiri
Department of Civil
Engineering

Prof. V. S. Vamsi Botlaguduru
Environmental Science &
Engineering Department



Enclosure: Verification report

Verification Report

on

**Implementation of Mumbai Metro Line-3 (Colaba-Bandra-SEEPZ): Car
Depot: Compliance of Orders of Tree Authority for Afforestation in Aarey
Colony Area**

(Project code: DRD/ES/AG-1/23-24)

Submitted to

The Honourable Supreme Court of India

Report prepared by:

Prof. Anurag Garg, Prof. P. Vedagiri and Prof. V. S. Vamsi Botlaguduru



Indian Institute of Technology Bombay, Powai,
Mumbai, INDIA

June 8, 2023

Adarsh

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Verification Report**Preamble**

With regard to Suo Moto Writ (Civil) No 2 of 2019 (1A No 68608 of 2023) on felling of trees in Aarey Forest (Maharashtra) for the metro rail project, the Honourable Supreme Court passed a judgement according to which the Director of IIT Bombay was requested to depute a team for verifying the Compliance of the Directions for Afforestation. Mumbai Metro Rail Corporation Limited (MMRCL) submitted a request letter (dated 29th April 2023) with a copy of the judgement to the Director, IIT Bombay

Accordingly, the Director deputed a three-member Committee (Prof. Anurag Garg, Prof. P. Vedagiri and Prof. Tabish Nawaz) to verify the abovesaid compliance and submit a report to Honourable Supreme court within the stipulated timeframe. The information regarding the formation of the team was sent by the Registrar, IIT Bombay to the Registrar, Supreme court of India through emails dated 1st May 2023. Due to unforeseen reasons, Prof. Tabish Nawaz could not continue on the committee and he was replaced with Prof. V. S. Vamsi Botlaguduru. The information regarding the replacement was communicated by the Registrar, IIT Bombay to the Registrar, Supreme court of India through emails dated 17th May 2023.

Scope of the Work

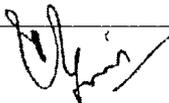
The scope of this work includes the verification of compliance of compensatory afforestation for the felled trees at five locations in Aarey colony car shed. Based on the discussions with MMRCL and Sanjay Gandhi National Park (SGNP), it was inferred that the compensatory plantation in lieu of trees cut for alignment and allied activities is not included in the scope.

Sequence of Events for Verification of Compliance*First meeting*

The IIT Bombay team had first meeting on 8th May 2023 with CF & Director, SGNP; Chief Conservator of Forests, Thane and the officials from Municipal Corporation of Greater Mumbai (MCGM) and MMRCL at IIT Bombay. The purpose of the meeting was to gather background information about the project and plantation as well as to decide on the dates for site visits. During the meeting, MMRCL was asked to submit relevant documents (such as sequence of events, permission from the competent authority to cut the trees and compliance reports submitted to MCGM) prior to field visits. The minutes of the meeting are attached as

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Annexure – I. MMRCL submitted majority of the information by 18th May 2023 and arranged two visits to the project site and plantation sites on 19th and 20th May 2023.

Information shared by MMRCL and SGNP

Following data was submitted by MMRCL and SGNP during the first meeting as well as before and after the site visits:

- A summary sheet of the total tree plantation at Aarey colony depot
- Copy of permissions from MCGM and Information sent by MMRCL regarding plantation
- Details of trees planted at Aarey colony in front of car depot site (conventional plantation)
- Details of plantation at Veer Sawarkar Udyan, Mindspace, MCGM garden near In-Orbit mall, Goregaon West, Mumbai (Miyawaki process)
- Details of plantation in SGNP (Conventional plantation)
- Summary of status shared by MMRCL and SGNP

The afforestation activity was performed to compensate the trees fell down at the five locations: Launching shaft, Ramp, Pylon termination substation, Car depot and Shunting neck.

As per the permissions issued by MCGM, the total number of trees to be planted were 15065 at Aarey colony depot, Mumbai. However, at the Aarey colony, the compensatory plants were reduced due to saving of 44 plants (as mentioned in Table 1).

Table 1 – Summary of compulsory compensatory tree plantation performed

Sr No	Name of work	Tree Cutting permission reference	Trees required for compensatory plantation
1	Launching shaft	DYSG/TA/Z-III/273/P dt. 29/12/2017	6
2	Ramp	DYSG/TA/Z-III/82/P dt. 06/07/2018	470
3	Pylon termination substation	DySG/TA/Z-III/85/P dt. 06/07/2018	210
4	Car Depot	DYSG/TA/Z-III/111/P dt. 13/09/2019	12846 (Due to saving of 44 trees)
5	Shunting neck	DySG/TA/Z-III/347/P dt. 15/03/2023	1533
	Total		15065

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The compensatory tree plantation was completed at three locations, viz, Aarey colony area (in front of car depot site), SGNP and Veer Sawarkar Udyan, Mindspace, MCGM garden (near in-orbit mall, Goregaon (W), Mumbai). The area used for plantation at the above three locations was approximately 5000 m², 2,40,000 m² and 3200 m², respectively. This is to be noted that the total area allocated for the compensatory plantation in SGNP is 2,50,000 m². Total number of trees planted at the locations above were 284, 7806 and 6975, respectively. The plantation at Aarey colony depot, SGNP and Veer Sawarkar Udyan, Mindspace MCGM garden was completed in the year 2015, 2018 and 2021, respectively.

At Aarey colony and SGNP, the conventional plantation technique was used whereas at the MCGM garden Miyawaki plantation technique was performed. During Miyawaki plantation at the MCGM garden, total 9003 trees were planted with an average of three plants per square meter (m²). However, as per the information provided by MMRCL, only 6975 trees were considered towards compensatory plantation

Table 2 - Various locations of tree plantation, year of plantation and number of compensatory trees

Location	Year of Plantation	Number of trees
Plantation at Aarey colony depot	2015	284
Plantation at SGNP	2018	7806
Plantation at Veer Sawarkar Udyan, Mindspace, MCGM garden (near In-Orbit Mall, Goregaon (W))	2021	6975
Total		15065

Furthermore, the responsibility of MMRCL for maintenance at Aarey colony plantation was for 5 years (i.e. till 2020). Whereas a memorandum of understanding (MOU) has been signed by SGNP and MMRCL for maintenance of the trees planted at SGNP. According to which, the expenses towards the maintenance of trees will be borne by MMRCL for a period of 7 years from the date of plantation (i.e., up to year 2025). At SGNP, names of the locations and number of trees planted at each location are given in Table 3 below. Based on the information, total compensatory plantation was higher than the required numbers. Out of 8035 trees, only 7806 trees were counted towards compensatory plantation at SGNP.

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At the third site, i.e., Veer Sawarkar Udyan, Mindspace, Goregaon (W), MMRCL executed the Miyawaki plantation through Forest Development Corporation of Maharashtra (FDCM) Limited, Thane (a Government of Maharashtra Enterprise). According to the MOU signed between MMRCL and FDCM, the latter will maintain the site for a period of 2 years after the plantation which will be over in June 2023.

Table 3 – Locations and number of trees planted at each location in SGNP

Location	Number of trees
SGNP Tourism area	1273
Satara camp/Kailash Puri	4282
Lohaghat	824
Gautam Nagar	1433
Gandhinagar	223
Total	8035

Site visits

The site visits to the tree plantation locations were conducted on 19th and 20th May 2023 after receiving relevant information from MMRCL.

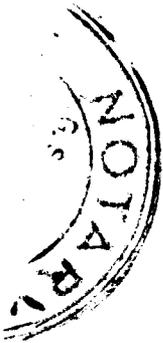
- Physical verification of the information supplied by MMRCL was conducted jointly by IIT Bombay and SGNP teams at the Aarey colony in front of Car depot site. The general observations were as follows on the day of inspection:
 - The trees were numbered properly with their botanical name.
 - Generally, the health of plants appeared good and their growth was satisfactory.
 - Sufficient water was available for the trees.
 - In this area, wide variety of trees were planted. The trees such as Mahogany, Kadamb, Saptapermi, and Jambhul which are indigenous and native to the area, were also grown although these species are not listed in the MCGM guidelines.
- The trees planted at various locations in SGNP were inspected by the IIT Bombay team to verify the shared information. Generally, the trees were very short in height. Nevertheless, some of the trees showed good growth despite low height and girth. Specific location-wise comments are discussed below:

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- *SGNP Tourism area* - Garden soil of good quality was found. Manual watering is being done and the growth of plants was found good and saplings were in healthy state on the inspection day. Moreover, the plants were protected with fence individually wherever needed. The survival rate at this site was observed to be approximately 80%.
- *Satara Camp and Kailashpuri* - Majority of the top surface was covered with bricks/stones (construction debris). However, manual watering is being done. Generally, the plant growth was found to be average due to unfavourable soil conditions and undulated slopy terrain due to which transfer of large tree species as well as water is very difficult. Significant number of trees were shorter than 6 feet however some of them showed promising growth. The survival rate of the trees at this location was approximately 40%. This location has a total of around 30 plant species (as per data shared by MMRCL and SGNP) and the major species were Karanj and Sissoo.
- *Gandhinagar and Gautam Nagar* - At these locations, small and medium sized rocks could be seen on top layers in patches. However, garden soil was also found near some plants. Watering is performed manually and approximately 70% plants seemed to survive at both the locations. The number of tree species planted at *Gandhinagar* and *Gautam Nagar* were around 7 and 40, respectively. The major species at Gandhinagar are Karanj and Sissoo whereas at Gautam Nagar, the main tree species included Karanj, Bahava and Jamun.
- *Lohaghat* - At Lohaghat, the top layer of soil had natural stones. Like other locations, watering is done manually. In this area, the tree survival rate was approximately ~45%. This location has around 12 plant species and the major species are Karanj, Sissoo, and Amla.

Some issues observed at various locations (except SGNP tourist area) included the following.

- Uneven terrain and rocky patches
- Unavailability of sufficient water
- Presence of construction debris

Despite these problems, encouraging growth patterns for some trees was observed though their height was less than 15 ft (as per the permissions issued from MCGM).

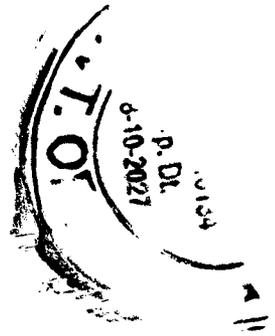
3. At Veer Sawarkar Udyan, Mindspace MCGM garden, the condition of Miyawaki

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plantation was studied. Following observations were made during the site visit:

- There were around 40 species grown at the location.
- Few plants like Bamboo, Kadamba, and Bhendi showed good growth rate whereas some other tree species like Bahava, Bakul, Anba, and Beherda showed lower growth because of the canopy shade of the taller well grown trees.
- At the site, water was supplied to the plants through drip irrigation.
- The trees in this kind of plantation are generally thin but achieve very good height.
- The survival rate of trees was approximately 75%.

The images of trees at various locations are attached as **Annexure – 2**.

Concluding remarks

1. The trees planted at Aarey colony (in front of car depot site) showed promising growth in terms of height and girth.
2. In the SGNP, the trees planted near the SGNP Tourism area showed good growth. In the other areas, relatively much lower survival rate (~40-70%) was seen. Further, the transfer and survival of taller trees (height at the time of plantation = 10-12' or more) is very difficult due to undulated terrain and presence of debris as well as rocks.
3. It was observed that in SGNP, some of the trees of shorter height showed promising growth. Based on the current status, it seems that the shorter trees (even 5-6' height) has greater potential to survive provided proper care is taken.
4. The maintenance contract between SGNP and MMRCL is for seven years from the date of plantation and should be completed in July 2025. Owing to the complexity of various sites in SGNP and to ensure complete compensatory plantation, it is suggested that the maintenance contract terms and conditions should be further extended by three years beyond the scheduled completion date (till year 2028).
5. It is understood that the afforestation in SGNP at the locations with undulated terrain will increase forest cover significantly. Hence, we suggest that MMRCL should replant 3500 trees in place of non-survival plants at suitable locations in SGNP.
6. Miyawaki plantation at MCGM park showed satisfactory growth. Since excess plantation was done (9003) out of which 6975 plants contribute to the compensatory plantation, no additional plantation is suggested.

Page 6 of 7

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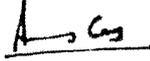
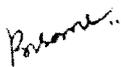
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7. The maintenance contract between FDCM and MMRCL will expire in June 2023. It is recommended that the maintenance contract should further be extended for three more years (till year 2026) beyond the scheduled completion date.
8. In summary, tremendous efforts have been put by MMRCL in collaboration with FDCM and SGNP towards compensatory tree plantation against the tree cutting in Aarcy colony depot. MMRCL should continue to ensure the plantation of additional trees as recommended above.

	Signature	Date
Prof. Anurag Garg		08/06/2023
Prof. P. Vedagin		08/06/2023
Prof. V. S. Vamsi Botlaguduru		08/06/2023



Annexure - 1

8th May 2023

**Minutes of the First Meeting for discussion of the Honourable Supreme Court
Judgement (dated: 17/04/2023 in IA no. 68608 of 2023 in Suo Moto Writ
(Civil) No. 2 of 2019)**

The first meeting of IIT Bombay team was scheduled at 3 pm with all stakeholders (Chief Conservators of Forests, Municipal Corporation of Greater Mumbai, Mumbai Metro Rail Corporation Limited) to discuss about the Honourable Supreme Court Judgement (dated: 17/04/2023 in IA no. 68608 of 2023 in Suo Moto Writ (Civil) No. 2 of 2019).

Following Officers attended the meeting:

1. Prof. Anurag Garg, Professor, Environmental Science and Engineering Department, IIT Bombay
2. Prof. P. Vedagiri, Professor, Civil Engineering Department, IIT Bombay
3. Prof. Tabish Nawaz, Assistant Professor, Environmental Science and Engineering Department, IIT Bombay
4. Mr. Mallikarjun, CF & Director, SGNP
5. Ms. K Pradeepa, Chief Conservator of Forests, Thane
6. Mr. Sunil Rathod, Deputy Superintendent of Gardens, MCGM
7. Mr. Charuhas Jadhav, Executive Director (Civil), MMRCL
8. Mr. Ajay Fulmali, Sr. Deputy General Manager (Env), MMRCL
9. Mr. Rajesh Patil, Sr. Assistant General Manager (Civil), MMRCL
10. Mr. Sachin Aher, Deputy Engineer, MMRCL

The meeting was started with introduction of all the attendees representing various organizations. This was followed by a brief presentation made by MMRCL regarding Mumbai Metro Line 3 Depot at Aarey colony and Order of Honourable Supreme Court of India. In the presentation, the background information pertaining to tree cutting permission was also provided and a sequence of events were also informed to IIT Bombay team and CCF. The presentation also included the summary of compensatory tree plantation at various locations with number of trees and rate of survival. Finally, the scope of IIT Bombay team and CCF was also discussed.



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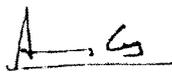
Based on subsequent discussions in the meeting, IIT Bombay team requested for the following information from various organizations:

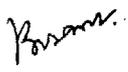
1. Submission of sequence of events – MMRCL
2. Details of compensatory tree plantation including the information on the area of location, number of trees planted, species, dimensions of the trees at the time of plantation, tree number (for verification during site visit), copy of the tree authority permission – MMRCL
3. Details of total number of trees planted versus minimum number of trees to be planted and their survival rate - MMRCL
4. A note on Miyawaki concept which should include number of trees per square meter, area used for plantation based on the concept, and locations - MMRCL
5. All the relevant tree cutting and compensatory plantation permissions – MCGM
6. Approved list of tree species – MCGM
7. Numbering on trees in SGNP region – will be done by SGNP

After discussion on the data or information requirement, following time frame for various activities to prepare the final report was agreed upon:

1. The required information (as a soft and/or hard copy) will be shared with IIT Bombay team by 15th/16th May 2023.
2. Multiple site visits with all stakeholders will be conducted during 17-20th May 2023 (tentative). The verification of the information shared by MMRCL will be done during the site visits. Random check will be made for verifying the data and information.
3. Final report will be submitted in the last week of May 2023 subjected to the information provided by MMRCL.

The meeting was concluded with thank to all attendees.





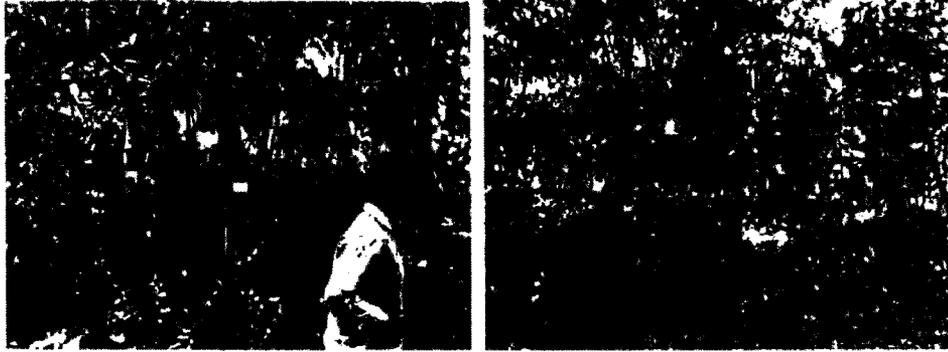


(IIT Bombay Team)





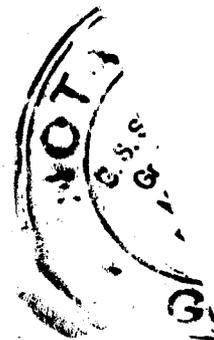
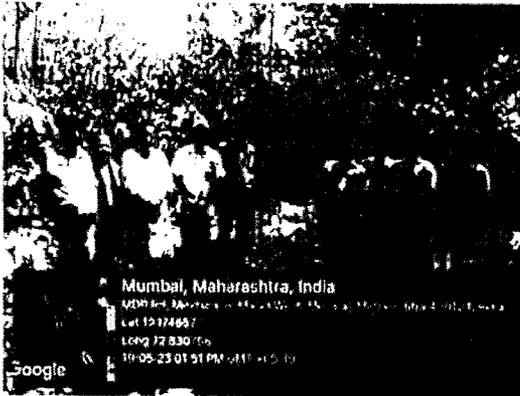
Annexure - 2



Plantation images in Aarey colony in front of Car depot site

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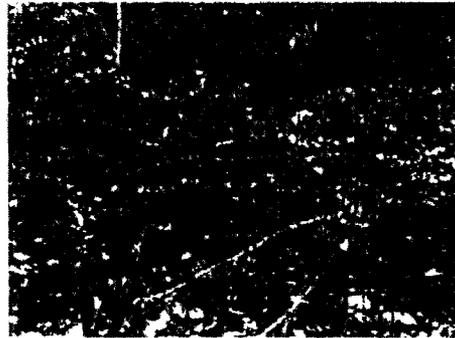


Images from Miyawaki Plantation site

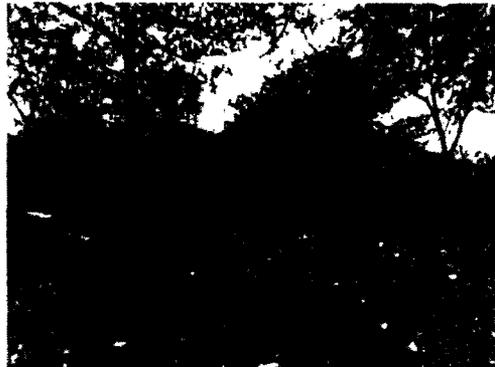
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Images from Satara Camp and Kailashpuri (SGNP)



Images from Gandhinagar area (SGNP)

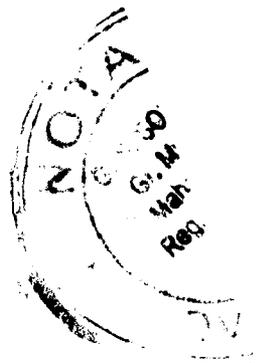


Images from Gautam Nagar (SGNP)

MAHARASHTRA
No. 10134
Exp. DL
8-10-2027
GOVT. OF INDIA

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Images from Lohaghat (SGNP)

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ITEM NO.13

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SSUO MOTO WRIT PETITION(CIVIL) NO. 2/2019

IN RE: FELLING OF TREES IN AAREY FOREST (MAHARASHTRA)

IA No. 121434/2022 - APPLICATION FOR PERMISSION
IA No. 146635/2025 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 106063/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 126011/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 163919/2019 - CLARIFICATION/DIRECTION
IA No. 121435/2022 - CLARIFICATION/DIRECTION
IA No. 26808/2023 - CLARIFICATION/DIRECTION
IA No. 178235/2019 - CLARIFICATION/DIRECTION
IA No. 26810/2023 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 104887/2022 - EXEMPTION FROM FILING O.T.
IA No. 186639/2022 - EXEMPTION FROM FILING O.T.
IA No. 104737/2022 - EXEMPTION FROM FILING O.T.
IA No. 126001/2022 - INTERVENTION APPLICATION
IA No. 105946/2022 - INTERVENTION APPLICATION
IA No. 163906/2019 - INTERVENTION/IMPLEADMENT
IA No. 126016/2022 - PERMISSION TO APPEAR AND ARGUE IN PERSON

WITH

SLP(C) No. 31178/2018 (IX)

IA No. 48960/2019 - CLARIFICATION/DIRECTION
IA No. 169955/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 169956/2018 - EXEMPTION FROM FILING O.T.
IA No. 84393/2025 - EXEMPTION FROM FILING O.T.
IA No. 48969/2019 - INTERVENTION/IMPLEADMENT
IA No. 52988/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 111577/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 176654/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

SLP(C) No. 14933/2019 (IX)

IA No. 99013/2022 - APPLICATION FOR PERMISSION
IA No. 75721/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 105224/2022 - EXEMPTION FROM FILING O.T.
IA No. 75723/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

W.P.(C) No. 1132/2019 (PIL-W)

IA No. 140471/2019 - EXEMPTION FROM FILING O.T.
 IA No. 140468/2019 - INTERVENTION APPLICATION
SLP(C) No. 24849/2019 (IX)
 IA No. 158849/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
 JUDGMENT
 IA No. 158850/2019 - EXEMPTION FROM FILING O.T.

W.P.(C) No. 1283/2019 (PIL-W)
 IA No. 160062/2019 - APPROPRIATE ORDERS/DIRECTIONS

SLP(C) No. 24958/2019 (IX)
 IA No. 48544/2020 - CLARIFICATION/DIRECTION
 IA No. 48495/2020 - CLARIFICATION/DIRECTION
 IA No. 52659/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 48850/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 160312/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
 JUDGMENT
 IA No. 4002/2022 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 52658/2021 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 160315/2019 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 160308/2019 - PERMISSION TO FILE LENGTHY LIST OF DATES

Date : 12-08-2025 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE K. VINOD CHANDRAN
 HON'BLE MR. JUSTICE N.V. ANJARIA

For Petitioner(s) :

Mr. Gopal Sankaranarayanan, Sr. Adv.
 Ms. Pooja Dhar, AOR
 Mr. Pratul Pratap Singh, Adv.
 Ms. Aditi Gupta, Adv.
 Mrs. Smruthi Gawda, Adv.

Dr. J. P. Dhanda, AOR

Ms. Srishti Agnihotri, AOR
 Ms. Sanjana Grace Thomas, Adv.
 Mr. D.p.singh, Adv.
 Ms. Tara Elizabeth Kurien, Adv.
 Ms. Anchal Kanthed, Adv.

Mr. Shyam Divan, Sr. Adv.
 Mr. Gopal Sankaranarayanan, Sr. Adv.
 Ms. Prerna Priyadarshini, AOR
 Mr. Kush Chaturvedi, Adv.
 Mr. Syed Faraz Alam, Adv.
 Mr. Atharva Gaur, Adv.
 Mr. Aayushman Aggarwal, Adv.
 Mr. Sudipto Sircar, Adv.
 Ms. Aditi Gupta, Adv.
 Ms. Ayesha Choudhary, Adv.

For Respondent(s) :

Mr. Maninder Singh, Sr. Adv.
 Mr. Siddharth Dharmadhikari, Adv.
 Mr. Aaditya Aniruddha Pande, AOR
 Mr. Bharat Bagla, Adv.
 Mr. Sourav Singh, Adv.
 Mr. Aditya Krishna, Adv.
 Mr. Adarsh Dubey, Adv.
 Ms. Chitransha Singh Sikarwar, Adv.

Mr. Mukul Rohatgi, Sr. Adv.
 Mr. Dhruv Mehta, Sr. Adv.
 Mr. Ashish Wad, Adv.
 Mr. Manoj Wad, Adv.
 Mr. Sandeep Mohan Patil, Adv.
 Ms. Swati Arya, Adv.
 Ms. Akriti Arya, Adv.
 Ms. Nishi Sangtani, Adv.
 M/S. J S Wad And Co, AOR

Mr. Tushar Mehta, Sr. Adv.
 Ms. Rukhmini Bobde, Adv.
 Mr. Chirag Shah, Adv.
 Mr. Naveen Bharadwaj, Adv.
 Mr. Amlaan Kumar, Adv.
 Mr. Vinayak Aren, Adv.
 Mr. Vishal Prasad, AOR

Mr. Gopal Sankaranarayanan, Sr. Adv.
 Ms. Pooja Dhar, AOR
 Mr. Pratul Pratap Singh, Adv.
 Ms. Aditi Gupta, Adv.
 Ms. Smruthi Gawda, Adv.

Mr. Tanmaya Agarwal, AOR
 Mr. Wrick Chatterjee, Adv.
 Mrs. Aditi Agarwal, Adv.



65

Intervenor-in-person, AOR

Mr. Tushar Mehta, Sr. Adv.
Ms. Rukhmini Bobde, Adv.
Mr. Chirag Shah, Adv.
Mr. Naveen Bharadwaj, Adv.
Mr. Amlaan Kumar, Adv.
Mr. Vinayak Aren, Adv.
Mr. Vishal Prasad, AOR

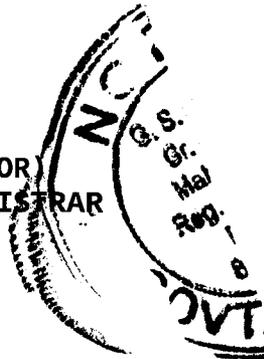
Mr. Shree Pal Singh, AOR

UPON hearing the counsel, the Court made the following
O R D E R

List on 14.08.2025.

(POOJA SHARMA)
AR-CUM-PS

(ANJU KAPOOR)
ASSISTANT REGISTRAR



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

WRIT PETITION NO. 814 OF 2017

Mrs. Pervin Jehangir & Ors.] ... Petitioners
Versus
Union of India and Ors.] ... Respondents

ALONG WITH

WRIT PETITION (L) NO.365 OF 2017

Mrs. Nina Deepak Verma.] ... Petitioner
Versus
Tree Officer, Municipal Corporation of
Greater Mumbai and Ors.] ... Respondents



Mr. Robin Jaisinghani a/w Jacinta D'Silva for Petitioner in WP 814 of 2017.

Mr. Janak Dwarkadas, Senior Advocate, a/w Mr. Zal Andhyarujina & Mr Saeed Mulani i/b Mulani & Co. for Petitioner in WPL 365 of 2017.

Mr Aspi Chinoy, Senior Advocate a/w Ms. Kiran Bagalia i/b Mrs. Chitra Phadke for Respondent No.2 in WPL 365 of 2017.

Ms. Kiran Bagalia i/b Mrs. Chitra Phadke for Respondent No.4 in WP 814 of 2017.

Mr. A. Y. Sakhare, Senior Advocate, a/w Mr. R. S. Mirupury & Mr. Sagar Patil for Corporation in both Writ Petitions.

Ms. S. S. Deshmukh for Respondent No.4 - Maharashtra Coastal Zone Management (MCZM) in WPL 365 of 2017 and for Respondent No.5 in WP 814 of 2017.

Mr. A. C. Singh, ASG, a/w Mr. Y. S. Bhate, Mr Anand Singh & Ms. Indrayani Deshmukh for Union of India in WP 814 of 2017 & WPL 365 of 2017.

Ms. Poornima Kantharia, GP, for State in WP 814 of 2017 & WPL 365 of 2017.

Dr. Milind Sathe, Senior Advocate a/w Mr. Parimal Shroff, Mr. D. V. Deokar, Mr. Sachin Pande, Mr. Pinakin Modi i/b M/s. Parimal K. Shroff & Co. for Respondent No.6 in WPL 365 of 2017.

CORAM :- DR. MANJULA CHELLUR, C.J.,
AND G. S. KULKARNI, J.

DATE :- 5 MAY 2017

P. C. :-

1. By our order dated 09/02/2017 awaiting returns to be filed, we had directed that none of the parties would proceed to cut any tree till further orders. The respondents have appeared and have filed counter-affidavits, as also additional affidavits. We have accordingly heard learned Counsel for the parties on the interim prayers as made in the Writ Petitions.

2. These two petitions raise a challenge to the Metro Rail Project namely Mumbai Metro Line 3 to operate between Colaba-Bandra-Seepz (for short 'the Metro 3 project'). The challenge is principally on two grounds, firstly, that the respondent – Mumbai Metro Rail Corporation Ltd. (for short 'the MMRCL) is undertaking illegal felling of trees and secondly on the ground that appropriate clearances are not obtained by MMRCL from the authorities under the

Coastal Zone Regulations as contained in the notification dated 06/01/2011 issued by the Government of India, Ministry of Environment and Forest (for short, 'the CRZ notification') and / or the clearances which are granted by the authorities are contrary to the provisions of the CRZ notification.

3. Mr. Janak Dwarkadas, learned Senior Counsel for the petitioner in Writ Petition (L) No.365 of 2017, in support of the interim prayers, would submit that the Metro 3 project is an activity *inter alia*, hit by the CRZ notification dated 06/01/2011, the object of which is to protect and conserve coastal stretches and for which it restricts setting up of industries, operations etc. Mr. Dwarkadas would submit that the proposed Metro stations fall in the defined CRZ areas and therefore, the stipulations as contained in the CRZ notification have become squarely applicable prohibiting certain activities which would include undertaking a Metro Rail project. Mr. Dwarkadas has drawn our attention to para 3 of the CRZ notification which speaks about prohibited activities within the CRZ and more particularly sub-para (x) which prohibits mining of sand and rocks and sub-strata material except those rare minerals not available outside the CRZ area, and exploration and exploitation of oil and natural gas. He also relies on sub-clause (xi) which prohibits construction activities except those specified in para 8 of the notification which, according to him, would become applicable for one of the Metro Station namely the Bandra Kurla Complex station (BKC).



4. Mr.Dwarkadas has laid much emphasis on paragraph 4(i) (b) of the said CRZ notification which provides, for applicability of Environmental Impact Assessment (EIA) Notification 2006 (dated 14/09/2006) for certain projects and for which clearance under the EIA notification would be necessary, subject to the recommendation by the concerned State or Union Territory Coastal Zone Management Authority ('CZMA'). He refers to sub-clause (d) of para 4(i) of the said notification which reads thus:

“(d) Construction involving more than 20,000 sq. mtrs. built up area in CRZ II shall be considered for approval in accordance with the EIA Notification 2006, and in case of projects less than 20,000 sq.mtrs built up area shall be approved by the concerned State or Union Territory Planning Authorities in accordance with this Notification after obtaining the recommendations from the concerned CZMA and prior recommendation of the concerned CZMA shall be essential for considering the grant of environmental clearance under EIA Notification 2006 or grant of approval by the relevant planning authority.”

5. The contention relying on clause 4 (*supra*) is that for construction of certain Metro stations falling in CRZ II, there is an apprehension that the construction would exceed 20,000 sq.mtrs. built up area, for which approval of the Central Government would be mandatory as per the Environmental Impact Assessment Notification dated 14 September 2006 and any approval granted by the local planning authority or the State authority would not suffice the requirement of sub-clause (i)(d) of paragraph 4 of the CRZ notification (*supra*). It is submitted that the CRZ notification cannot be applied in a disjointed manner presuming that each station is an

independent project. He submits that the total area of construction to be undertaken for the whole project is required to be considered for the purpose of the clearances under the CRZ notification and more particularly, para 4 (i)(d) (*supra*).

6. Mr. Dwarkadas would next submit that trees form a significant part of the environment and therefore, felling of trees for the proposed project would have a serious impact on the environment. He submits that in undertaking the project MMRCL would be indiscriminately felling trees. According to him, the felling of trees would also be hit by the protection granted to the environment under the CRZ notification dated 06/01/2011. It is, therefore, submitted that the petitioners have made out a *prima-facie* case for grant of the interim prayer as made in the petitions.

7. Mr. Jaisinghani, learned Counsel appearing in Writ Petition No.814 of 2017, supports the submissions of Mr. Dwarkadas. He would contend that Metro Rail project is a prohibited activity under clause 3(i) of the CRZ notification, which prohibits activities of setting of new industries and expansion of existing industries in the CRZ. According to him, the Metro Rail project is setting up of an industry. He submits that apart from this, for construction of the underground tunnels, excavation would be undertaken which is also a prohibited activity under sub-clause (x) of clause 3 of the CRZ notification which prohibits mining of sands, rocks and other substrata material. He submits that the only alternative available to the



respondents is to undertake construction of Metro Rail project beyond the CRZ areas. Mr. Jaisinghani would contend that even the open spaces are protected under the CRZ notification. In this context, he has referred to clause 8(e) (page 14 of the notification) which provides that in order to protect and preserve the green lung of Greater Mumbai area, all open spaces, parks, gardens, playgrounds, indicated in development plans within CRZ II shall be categorized as CRZ III, that is a no development zone. Mr. Jaisinghani would thus submit that the Metro Rail Project is rendered illegal in view of these provisions of the CRZ notification. Mr. Jaisinghani next submits that the Metro-3 project is also contrary to the provisions of the Metro Railways (Construction of Works) Act 1978 as, according to him, the respondents have acted in breach of the provisions of this Act and more particularly the provisions of Chapter III which pertains to acquisition of land. In this context, he submits that it is a settled principle of law that when the respondents are under an obligation to act in accordance with the rules and regulations, then the respondents are expected to act only in such manner and in no other manner. In this context he has placed reliance on the decision of the Supreme Court in *J. Jayalalithaa & Ors. Vs. State of Karnataka & Ors.*¹ However, Mr. Jaisinghani has not pointed out specific instances of land acquisition undertaken by the MMRCL for the project nor the petitioner for whom he appears is affected by any land acquisition.

1 (2014) 2 SCC 401

8. On the other hand, Mr. Chinoy, learned Senior Counsel for the MMRCL, has opposed the petition and the interim prayers and also seeks vacating of the ad-interim orders passed by us on 09/02/2017. Mr. Chinoy submits that the contentions as urged on behalf of the petitioners are completely misplaced. He has drawn our attention to the affidavit of Mr. Ashok Bhasme, Deputy General Manager of the MMRCL, wherein it has been pointed out that, in regard to the Churchgate, Girgaon and Shitaladevi Metro Stations which fall in CRZ II areas, the MMRCL had submitted a proposal for a CRZ clearance, to the Maharashtra Coastal Zone Management Authority (for short, 'the MCZMA') on 28/07/2016. It is submitted that the location of the station area as indicated in the said proposal establishes that the same falls on the landward side of the existing DP (Development Plan) road and hence is permissible under Clause (8) of the CRZ notification of 2011. It is submitted that MCZMA considered this proposal in its 113th meeting held on 8th to 11th August 2016 and recommended the said 3 proposals to the planning authority, this was also communicated to the MMRCL by the MCZMA by its letter dated 21/03/2017. Paragraph 6(b) of the affidavit, refers to the recommendation for the Worli station, which also falls in the CRZ II area, as considered by the MCZMA in its 114th meeting, held on 2nd and 3rd November 2016. As also the Siddhivinayak Temple Station was recommended, which fell under CRZ III. In paragraph 6(c), the deponent has referred to the Cuffe Parade Station admeasuring 10800 sq. mtrs., which is adjacent to Plot Nos.87A, 87, 88, 89, 90 and 103 comprising of DP road and an



additional area of 3375 sq.mtrs. covered by park area required for ancillary use. It is stated that the MCZMA had pointed out that area covered by the park reservation would fall under CRZ III and could not be permitted by MCZMA to be utilized as such, and thus the proposal would be recommended to the SEIAA for its clearance. It is stated that subsequently, MMRCL modified its plan and had deleted the area falling in the park reservation (CRZ-III) from its proposal. It is stated that on 18/05/2016, MMRCL had submitted a revised proposal to the MCZMA for the Cuffe Parade Station which was considered in the 113th meeting held on 8th to 11th August 2016 and was recommended to the planning authority as per the requirements of the CRZ notification.

9. As regards the BKC and the Dharavi Railway Stations which fall in CRZ I and partly in CRZ II, the affidavit of the MMRCL in para 8(a), (e) and (f), and (g), would point out that the proposal for construction of Metro Stations at Dharavi and BKC as submitted by MMRCL to the MCZMA were considered in its 113th held between 8 to 11 August 2016 and it was decided by the MCZMA to recommend the proposal to the MOEF. Thereafter, a representation was made by the MMRCL to MCZMA dated 2.9.2016 pointing out that as per the amended CRZ notification dated 28.11.2014, the proposal was required to be considered at the State level instead of the MOEF. It is stated that accordingly the MCZMA reviewed the proposal of said station in its 114th meeting held on 2nd and 3rd November 2016 and recommended the proposals to the SEIAA which granted an approval

to the BKC and Dharavi stations, in its meeting held on 7th April 2017. In para 8 (g) it is submitted that all precautions would be taken to comply with the various conditions of the approval. Para 9 of the reply affidavit refers to the recommendations of the MCZMA in relation to the Metro Rail tunnel. In regard to the contention as urged on behalf of the petitioners that Metro rail is an industry and thus a prohibited activity under CRZ notification, Mr. Chinoy submits that this contention cannot be accepted as the same is no more *res-integra* in view of the decision of the Division Bench of this Court in the case of *The Goa Foundation and Anr. Vs. The Konkan Railway Corporation & Ors*². It is submitted that the MOEF has held the Metro project to be a permissible activity in the CRZ, as a civic amenity and hence the contention that prohibitions as contained in the CRZ notification would bar such a project on any count, cannot be accepted. It is submitted that the MMRCL has obtained clearances from the concerned authorities under the CRZ regulations. It is thus submitted that the contentions of the petitioners that these recommendations are made contrary to the provisions of the CRZ notification, are wholly unfounded.



10. In regard to the contention of the petitioners on felling of trees, Mr. Chinoy, learned Senior Counsel for MMRCL, submits that the required procedure under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 is followed by the MMRCL and the Tree Committee of the Municipal Corporation has

² AIR 1992 Bom. 491

granted appropriate permission for felling of trees, transplanting of trees. It is submitted that the MMRCL would undertake re-plantation/ substituting the trees, which would be required to be felled as also maintain the re-planted trees. In this regard, he has drawn our attention to the affidavit of Mr. Ashok Bhasme, Deputy General Manager of the MMRCL dated 09/03/2017. In para 3, it is stated that the MMRCL will ensure as under :-

“The Stations of the Metro Line – 3 are also going to be underground, with only certain structures for access, ventilation and other miscellaneous allied services being above ground. Although constructions of such stations does entail cutting / removal of trees, on completion of the station construction, almost 90 – 95% of the area affected will be restored as a level vacant area and only 5 – 10% of the area will be utilized for access, ventilation and other services. Etc. Accordingly MMRC will ensure that trees equivalent to the number of trees affected (i.e. both trees cut and trees removed for transplantation) will be planted in the said area on completion of the station construction work. MMRC will take steps to ensure that trees of adequate girth of about 18” – 24” are made available & are planted in the said affected area. MMRC will also ensure for a period of three years thereafter such planted trees are looked, safeguarded & maintained. Accordingly MMRC will ensure that there is no loss of tree cover in all the areas affected by station construction.”

(Emphasis supplied)

11. In addition to the above submissions, Mr.Chinoy on behalf of MMRCL, submits that the MMRCL would place on the record of this Court an undertaking in terms of the submissions in the above paragraph. Mr. Chinoy submits that the MMRCL is also ready to

accept any suggestions / directions as may be given by the Court on this issue. Making there submissions, Mr. Chinoy would submit that the ad-interim order dated 09/02/2017 is required to be immediately vacated, as it is causing a serious prejudice to the MMRCL, resulting in delaying the project thereby increasing the financial burden on the public exchequer. Mr. Chinoy submits that during the execution of the work, there are trenches which are dug and which, if not attended in time, would become an issue of serious concern during the monsoon which would commence in the month of June.

12. Mr. Anil Singh, learned ASG, has appeared on behalf of Government of India, the Ministry of Environment and Forest & Climate Change (for short, 'MOEF & CC) – respondent no.5 in WPL 365 of 2017. The learned ASG has placed on record affidavit of Mr. W. Bharat Singh, Joint Director / Scientist 'D' of the Ministry. The deponent, in setting out the powers which are conferred on the MOEF under the CRZ notification 1991 read with notification dated 06/01/2011 and the stipulations and requirements of the said notification, in para 7, has stated as under :

“That it is submitted that this Metro project proposal was examined by the Ministry and being a civic amenity, was considered as permissible activity under CRZ Notification, 2011. The proposal was, accordingly, forwarded to the Maharashtra Coastal Zone Management Authority (Respondent No.4), vide Letter No.19-130/2015-IA-III dated 18.08.2016, for necessary action.”



Mr. Singh submits that the MOEF has discharged its statutory duty and considering Metro project as a permissible activity, being a civic amenity under the CRZ notification, appropriate action has been taken by permitting the State authorities to deal with the proposal of the MMRCL.

13. Mr. Sakhare, learned Senior Counsel appearing for the Municipal Corporation for Greater Mumbai – respondent no.1, would submit that various applications of the MMRCL were submitted to the Tree Authority, which came to be considered and appropriate decision was taken either to permit transplanting of the trees or to cut the trees and / or to retain the trees. In making this submission, he has relied on the reply affidavit filed on behalf of the Municipal Corporation. Mr.Sakhare has placed on record a statement indicating that in regard to the construction of the Metro Rail project, 1727 trees would be required to be transplanted, 1074 trees are permitted to be cut and 1090 trees would be retained in the 26 areas as set out in the said statement.

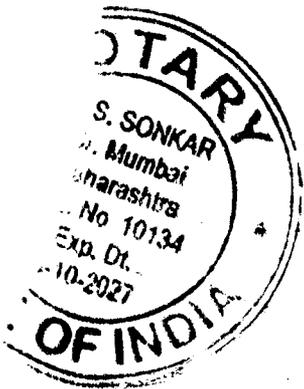
14. Having noted the rival contentions, we now examine whether the ad-interim order dated 09/02/2017 deserves to be continued or whether interim relief as prayed in the petition can be granted *inter alia* to stay the Metro project.

15. The petitioners do not dispute that the project in question is a project of considerable public importance for a metropolitan city

like Mumbai. The Metro 3 project is stated to be a fully underground, rail based mass public rapid transport system, of the total length of about 33.5 kilometers. There can be no dispute that the present public transport facilities in Mumbai city are grossly over-crowded, over-strained and inadequate. It is a matter of common knowledge that citizens are required to travel with immense pain and hardship and in conditions endangering their lives in the overcrowded existing suburban trains and buses. Desire for a smooth and comfortable travel in Mumbai had remained a distant dream. To decongest this pressure on the existing transport system and to increase mobility across the region, the State authorities had decided to undertake diverse Metro rail projects. The Metro Rail Line 3 project is stated to provide a high quality public transport system to the vast population, particularly beneficial to Wards A, C, D, E, G/S G/N, A/E, and K/E. It is projected that about 13.87 lakhs passengers per day can be benefited by Metro Rail Line 3. It is stated to connect 30 educational institution, 6 central business district, 30 recreational centers and the domestic and international air terminals. It is expected to save about 60 minutes of the passengers average travelling time per day, resulting in reduction of road traffic, fuel consumption and air pollution. There is a projection of estimated reduction of 6800 tons of Carbon Dioxide (CO₂) in 2021 and 9907 tons by 2041. Further it is estimated that there would be reduction of Carbon Monoxide (CO) to the tune of 4327 tons in 2021 and increasing to 6304 tons to 2041. If these are the benefits of the Metro Rail 3, there can be no doubt that it would be of enormous benefit to the public on all counts.

16. Now as regards the challenge as raised by the petitioners on the issue of the project offending the CRZ regulations, in our *prima facie* opinion, on the material as placed on record and as examined by us, the petitioners' contentions cannot be accepted. It is quite clear that the MMRCL had approached the competent authorities under the CRZ notification to obtain appropriate clearances. The Government of India in the MOEF has taken a clear stand that the project in question was examined by the MOEF and being a civic amenity was held to be permissible activity under the CRZ notification dated 06/01/2011. Further, as per the amendment dated 28/11/2014 to the CRZ notification, the projects involving construction of less than 20,000 sq.mtrs built up area are required to be approved by concerned State or Union Territory Planning Authorities and were required to be accordingly dealt as in the present case by the State Environmental Impact Assessment Authority (SEIAA), for clearance after obtaining recommendations of the Maharashtra Coastal Zone Management Authority (MCZMA). From what has been placed on record in the pleadings as filed on behalf of the respondents, *prima facie* we are satisfied that MMRCL has taken the essential steps of their proposal being approved by the MCZMA which ultimately was considered by the SIEAA and clearances for construction of different Metro stations have been granted by the SIEAA, subject to various conditions. These clearances are placed on record by the petitioner Mrs. Pervin Jehangir in the additional affidavit dated 2/5/2017, as also in the compilation of documents as submitted on behalf of MMRCL.

17. The contention of the petitioners is that in granting such clearances, each Metro station cannot be considered to be a single unit but the entire project is required to be considered as one unit in the context of the jurisdiction of the authorities under clause 4(i)(d) of the CRZ notification dated 06/01/2011. *Prima facie* we do not agree with this contention of the petitioners for two fold reasons. Firstly, because the Metro stations are being constructed at about 26 places, out of which, as noted above, about 10 stations would fall under CRZ areas. As these stations are being constructed at different locations, within the city and its suburbs, and in different CRZ areas, therefore, *ex facie*, they cannot be categorized as a single project for the application of clause 4(i)(d) of the CRZ notification of 2011, so as to hold that the State authorities (MCZMA and SIEAA), under the said clause, would not have jurisdiction to issue clearances. Such an interpretation as contended by the petitioners cannot be attributed to the plain language of clause 4(i)(d) (*supra*). Secondly, this contention cannot be accepted also for the reason that the MOEF being the parent authority, has examined the issue and holding Metro Rail as a civic amenity, has decided that the Metro project would be a permissible activity in the CRZ, and by its letter dated 10/08/2015, forwarded the proposal of the MMRCL to the MCZMA for necessary action. On this clear background, we do not feel that we ought to dwell any further on this issue. The petitioners' contention that there would be mining activity in digging tunnels which is a prohibited activity under the CRZ notification, also cannot be accepted. In our opinion, in the context of the CRZ notification, the prohibition would



be to a specific commercial activity of mining and not to the incidental activity of excavation of soil in digging tunnels. If such contention of the petitioners is accepted, then any activity involving digging of soil for the construction of foundation for any building would be required to be held as mining. Surely, this is not what is intended by the CRZ notification. In the present case, the excavation is surely not an activity of specific mining of sand or rocks and any sub-strata material. The authorities also do not agree with such attribute of the petitioners on the mining issue.

18. As regards the contention of the petitioners that the Metro Rail project is a prohibited activity under the CRZ notification being an industry, also cannot be accepted. Mr. Chinoy would be right in contending that this issue fell for consideration of the Division Bench of this Court in the *Goa Foundation Case* (*supra*). The Division Bench, in no uncertain terms, rejected a similar contention holding that the expression 'industries, operation or processes etc.' as used in the CRZ notification cannot bring within in its sweep the activities of providing a rail line. The stand of the MOEF in the affidavit filed in these proceedings would also support this position.

19. In regard to the contention of the petitioners that there would indiscriminate felling of trees and thus there would be large scale damage to the environment, also cannot be accepted in the above circumstances. The MMRCL has adopted the appropriate procedure as known to law by approaching the Tree Authority. The

Tree Authority, as seen by us from the affidavit as placed on record by the Municipal Corporation, has considered these applications *qua* the trees which are to be affected, and has granted permission to either cut the trees or replant the trees as also to retain some of the trees. It also cannot be overlooked that a project as important as this cannot be undertaken without some damage to the environment in terms of felling of trees, but at the same time it is not the case that these trees would not be replaced in the same area by the MMRCL as undertaken by them and as extracted by us above. Not only that, but the MMRCL has also undertaken to maintain these trees even after the project is completed. This would mean that many of the trees would not only be transplanted in the same area but also those trees which are cut would be replanted and catered for times to come. This definitely cannot mean that there would be an irreversible damage to the environment by cutting of these trees. We cannot disregard the solemn undertaking being given on behalf of MMRCL to discharge their obligation to maintain the environment in these terms in furthering an important public cause of providing Metro Line 3 to the residents of Mumbai. Further it is not the case that other open areas are not available to undertake planting of new trees of different varieties and enrich the environment. An optimistic and pragmatic approach is necessary to mitigate this temporary phase which would ultimately result in larger public benefit. Thus, *prima facie*, the apprehensions of the petitioners on this count are not well founded.



20. We may observe that the approach which is required to be adopted would be to bring about a balance on both the issues namely environment on one hand and the development of Metro Rail on the other. It cannot be overlooked that once functional, Metro Rail 3 would also help for a better environment as noted above. Apart from this, it would also facilitate to improve the socio-economic condition of the citizens. Thus, the approach we intend to adopt in passing this order is to bring about a balance in the protection of environment and the development in question so that a situation of prosperity on both these counts can be achieved. The principles of law in this regard are well settled. If a hard stand, as canvassed by the petitioners is accepted, then it would be impossible to have any development for the betterment of the citizens residing in this metropolitan city. We also cannot overlook the far reaching benefits Metro Rail has provided in other cities like Kolkata, New Delhi and Bangalore. We, therefore, feel it appropriate that the respondents would achieve these objects and goals to provide for a Metro Rail for the benefits of lakhs of citizens, as also undertake every measure to protect the environment by adhering to all the norms as set down by the authorities. We are satisfied with the approach of MMRCL in this regard and the undertaking which they have given, in declining to grant the interim prayer of the petitioners.

23. Resultantly, we are inclined to vacate the ad-interim order dated 9/2/2017 by which we had restrained the MMRCL from further felling of trees in execution of the Metro 3 project. We, accordingly, pass the following order :

ORDER

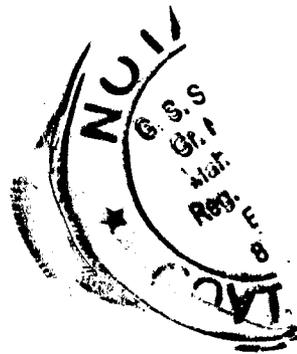
- (i) Rule.
- (ii) The MMRCL is directed to file an undertaking in terms of paragraphs 3 and 5 of the affidavit of Mr. Ashok Bhasme, Deputy General Manager, MMRCL dated 9/3/2017 within a period of one week from today.
- (iii) We appoint the Member Secretary of the Maharashtra Legal Services Authority and the Deputy Registrar to oversee the compliance in regard to the re-plantation, transplantation of the trees in terms of the undertaking as contained in paragraphs 3 and 5 of the affidavit of Mr. Ashok Bhasme, Deputy General Manager, MMRCL dated 9/3/2017 and the undertaking to be filed.
- (iv) Such compliance be reported by these officers from time to time and preferably every month to a Committee of two Hon'ble Judges of this Court as would be nominated by the Chief Justice.
- (v) The interim prayers as made in the petitions stand rejected.
- (vi) The petitions be listed for final disposal in the 2nd week of July, 2017.



24. At this stage, learned Counsel for the petitioners, seek continuation of the ad-interim order dated 09/02/2017 for a period of two weeks. The request is opposed on behalf of the MMRCL. In the facts of the case, we continue the ad-interim order for a period of ten days from today.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)



1

ITEM NO.9

COURT NO.5

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).15086/2017

(Arising out of impugned final judgment and order dated 05.05.2017 in Writ Petition (L) No.365 of 2017 and passed by the High Court of Judicature at Bombay)

NINA DEEPAK VERMA

PETITIONER(S)

VERSUS

TREE OFFICER, MCGM & ORS.

RESPONDENT(S)

I.A. No.39863/2017-Application for exemption for filing c/c of impugned order)

Date : 18/05/2017 This petition was called on for hearing today.

SORAM :

HON'BLE MR. JUSTICE L.NAGESWARA RAO
HON'BLE MR. JUSTICE NAVIN SINHA
(VACATION BENCH)

For Petitioner(s)

Dr. Abhishek M. Singhvi, Sr. Adv.
Ms. Manek Joshi, Adv.
Mr. Kamaldeep Dayal, Adv.
Mr. Jatin Zaveri, AOR
Mr. Neel Kamal Mishra, Adv.

For Respondent(s)

Mr. Mukul Rohatgi, AG
Ms. Kiran Bhagalia, Adv.
Ms. Rukhmini S. Bobde, Adv.
Mr. Vishal Prasad, Adv.
Ms. Soumya Priyadarshinee, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard the learned counsel for the parties and perused the relevant material.

Application for exemption from filing certified copy of the impugned order is allowed.

Validity unknown
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NEETU KADURIA
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By the impugned order, the High Court appointed the Member Secretary of the Maharashtra Legal Services Authority and the Deputy Registrar to oversee the compliance with regard to transplantation and re-plantation of the trees in terms of the undertaking given by the Deputy General Manager, MMRCL on 09.03.2017.

The High Court has further directed that a Committee of two Hon'ble Judges would be nominated by the Chief Justice to oversee the compliance of the earlier direction.

We give liberty to the petitioner to approach the committee of two Hon'ble Judges to be nominated by the Chief Justice for redressal of their grievances.

The special leave petition is disposed of in the above terms.

(Neetu Khajuria)
Court Master

(Asha Soni)
Court Master



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MINUTES OF MEETING IN
W.P. NO. 814 OF 2017 AND W.P. (L) NO. 365 OF 2017
HELD ON 4TH SEPTEMBER, 2024
REGARDING METRO III TREE CUTTING AND TRANSPLANTATION

Following persons were present:-

1. Ms. Nina Verma, Petitioner present in person a/w. Mr. Zoru Bhatena, representative of Petitioner.
2. Mr. Omprakash Jha, Advocate for MMRCL a/w. Advocate Roop Basu.
3. Mr. Shashikant Chaudhari a/w. Mahesh Chandanshiv, Advocate for MSLSA.
4. Mr. Kunal Birwadkar a/w. Ms. Shraddha Kadam - Intervenor.
5. Ms. Oorja Dhond, Advocate of BMC
6. Shri Ashok Bhasme, DGM, MMRCL
7. Shri Yogesh Kadam, Horticulturist, MMRCL
8. Shri Vivek Rane, Horticulturist, MMRCL
9. Shri Ajay T. Fulmali, Advisor, MMRCL
10. Shri A.G. Mhashilkar, SE, MMRCL, BMC, A Ward.
11. Shri Pravin Mhavale, H.A.- A Ward
12. Shri Ravi Keshav Mhaske, AE (Maintenance), BMC, A Ward

The Committee opened the discussion with a query to the respondent-MMRCL as to how many trees are planted and how many more are yet to be planted. The Respondent-MMRCL replied that out of the proposed 2600 (approx..) trees to be planted 761 trees are planted till 04/09/2024 and 101 pits are earmarked for the plantation. The respondent-MMRCL apprised that there is difficulty in digging and planting due to the Monsoon season. It was further informed that the speed of the plantation would be increased after the monsoon recedes. It was also informed that more tree pits would be earmarked for plantation as and when more land becomes vacant. It was also informed that in all MMRCL was expecting to plant about 1100 trees.

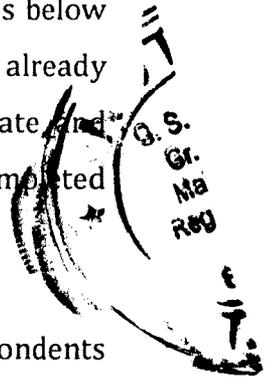
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The Petitioner-Mr. Zoru Bhatena stated that the respondents have not yet reached anyway near to the target to be achieved for plantation. He suggested that Committee should visit the actual site where the trees are being planted. He further stated that there is possibility that every station has enough space for planting more trees. The Committee suggested that the MMRCL should take help of the petitioners and the BMC to identify spaces for planting the trees. The Advocate for the MMRCL stated that he had no objection for the same.

The Petitioner-Mr. Zoru Bhatena suggested that only the respondents cannot decide the place where the trees can be planted because in charge of the respective stations have drawings or plans with them and they can be called to the site for identification of places for plantation of trees. He stated that the Station Manager-Shri Bhasme is responsible for the work.

The Committee expressed displeasure as the plantation of the trees is below 50%. Shri. Bhasme submitted that out of about 641 trees about 260 trees are already planted at four stations namely Cuffe Parade, Vidhan Bhavan, Churchgate and Hutatma Chowk. He further submitted that 80-85% plantation would be completed by the end of November, 2024.

The Committee further suggested that the Petitioners and the respondents should hold meetings with the authorized officer of each package (Station list) on mutually agreed dates by keeping MSLSA in loop. The Petitioner-Mr. Zoru Bhatena suggested that chart prepared by MMRCL for the plantation must have an additional column which should show the number of trees yet to be planted. He also requested the Committee that Shri Bhasme should inform the Committee as to who are the authorized Officers who can be approached for re-plantation at the respective stations. The respondent-MMRCL replied that the concerned Deputy General



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Manager was responsible for the seven packages where the trees are to be planted. The Committee observed that the concerned Deputy General Managers should attend the future meetings, if necessary.

The respondent-MMRCL suggested that the inspection of the sites be fixed so as to enable the representatives to remain present upon which Petitioner-Mr. Zoru Bhatena suggested that meetings should be held at the site with the involvement of MSLSA. The Committee directed the BMC and MMRCL to act in co-ordination for holding the meetings and inspecting the sites. The Advocate for the Petitioner submitted that DSG Shri Atarde has already been appointed by the BMC for the project. The Petitioner-Mr. Zoru Bhatena requested to provide the list of stations and the names of the concerned Officers for inspection of the stations. Shri Pravin Bhavale from the BMC stated that he would communicate the above request to the concerned officer of the BMC. On this, the Petitioner-Mr. Zoru Bhatena submitted that though the BMC had no connection with issue he did not have any objection to involve the BMC in the inspection and meetings.



The Committee observed that nothing was done till date for the landscaping at the Eros circle, Churchgate. The Advocate for the respondent-MMRCL submitted that the letters dated 09.07.2024 and 16.07.2024 were issued to the BMC for the permission of landscaping but no reply was received. On being questioned by the Committee, the official from the BMC stated that the parking area should be restored by the respondent-MMRCL and handed over to the BMC. The Committee expressed displeasure on the statement made by the official of the BMC. The Committee observed that restoring the green cover is important. The Committee further observed that the necessary steps be taken for landscaping and the work should be started.

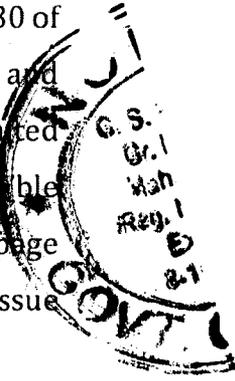
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The Committee asked as to how many cars can be parked at the Eros Circle, Churchgate. The officer from the BMC replied that 30 four wheelers and 10 two wheelers can be parked at the parking. The Committee suggested that there can be plantation of trees as well as space for parking can be provided for which preliminary meeting should be held between the petitioners and BMC.

On the aspect of Geo-tagging, the Advocate for the respondent-MMRCL stated that the work would be started within 15 days from today and the same would be completed by 10/11/2024. The Committee also observed that the respondent-MMRCL shall submit the progress report about Geo-tagging to MSLSA every 15 days. The Committee further observed that if there is no progress in the work, then a separate meeting would be convened only on the work of Geo-tagging. The Petitioner-Mr. Zoru Bhatena stated that the copy of the tender towards the work of Geo-tagging should be given to the petitioners so that they can give their suggestions.

On the issue of jurisdiction of the Committee to deal with the issue of felling of the trees in the Aarey colony, the Petitioner-Mr. Zoru Bhatena read out page No. 30 of the paper book (Annexure IV- Notes prepared by the respondent-MMRCL) and submitted that the entire Metro Line-3 project was challenged and it was not limited only to four stations. He pointed out that in view of the order passed by the Hon'ble High Court in WP (L) No.2907/2016 and WP (L) 365/2017 dated 09/02/2017 (page 35 of the paper book No.7) the Committee had the jurisdiction to deal with the issue of Aarey colony.

The Committee noted the observations in the order dated 29/11/2022 passed by the Hon'ble Supreme Court of India in Suo Moto Writ (Civil) No.2/2019 more particularly in paragraph No.18 and the order dated 17/04/2023 more particularly in paragraph No.15.



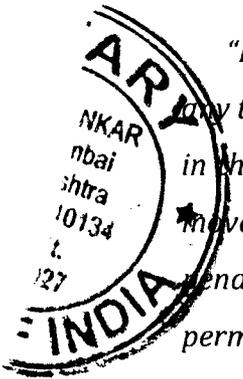
Para No.18 of the order dated 29/11/2022 reads as under:-

*"In its affidavit, the State Government submitted that after considering the options above, the Committee found that three sites at or beyond the terminal points meet the requirements. Thereafter, the **Technical Committee** submitted its report recommending as follows:*

- (i) The Metro-III car depot be located at Kanjur Marg with only a small stabling unit at Aarey Depot.*
- (ii) In case the land was not made available at Kanjur Marg within a period of three months then the car depot was proposed to be located at Aarey Colony within a 20.82 hectare area, and*
- (iii) Measures would have to be taken to mitigate environment damage at Aarey Colony."*

Para No.15 of the order dated 17/04/2023 reads as under:-

"It was improper on the part of MMRCL to move the Tree Authority for the felling of any trees in excess of 84 trees. If circumstances had transpired which lead to a variation in the number of trees to be cut, the only correct course of action would have been to move this Court. We are, hence, of the view that it would be necessary for the Court to penalize MMRCL for its conduct. Having said that, the issue is as to whether the permission which has been granted on 15th March 2023 should be stayed by the Court, at the present stage. Any such direction will have the consequences of bringing the public project to a standstill. Such a course of action would not be desirable. As the Court noted in its previous order, substantial steps have already been taken by felling over 2000 trees for the purpose of the project. In this backdrop, we modify the previous order by permitting MMRCL to act in compliance with the order dated 15th March 2023. However, this shall be subject to the following directions:

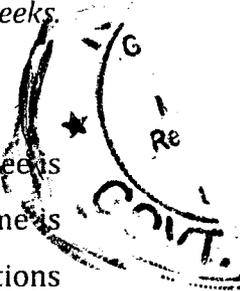


93

- (i) MMRCL shall, within a period of two weeks, deposit an amount of Rupees Ten Lakhs with the Conservator of Forests;
- (ii) The Conservator of Forests shall ensure that all directions which have been contained in the previous orders of the Tree Authority for afforestation have been duly complied with.
- (iii) **The Conservator of Forests shall submit a report before this Court indicating the status of compliance in regard to the directions which have been issued up-to-date for afforestation and for transplantation of trees; and**
- (iv) In order to enable this Court to have objective assistance in regard to the compliance of the directions for afforestation, we request, **the Director of IIT Bombay** to depute a team for the purpose of verifying compliance. A report shall accordingly be submitted before this Court within a period of four weeks. The costs, charges and expenses payable shall be borne by MMRCL.

In view of the above, the Committee is of the opinion, that the Committee is not in a position to issue direction in respect of the Aarey colony as the same is subjudice before the Hon'ble Supreme Court of India in which certain directions were issued to the MMRCL, Director of IIT Bombay and the Conservator of Forest regarding the trees in the Aarey Colony.

The Petitioner-Mr. Zoru Bhatena questioned how the trees in the depot at the Aarey colony which were ear-marked for transplantation had vanished?. On this, the Advocate for the respondent- MMRCL stated that the IIT Committee appointed by the Hon'ble Supreme Court of India and the Chief Conservator of Forests had inspected the site and would be submitting a report to the Hon'ble Supreme Court of India.



J. Bhatena

The MMRCL agreed to do the following:

- 1) MMRCL to immediately start the work of landscaping of the area at Eros Circle, Churchgate and BMC will consider it positively.
- 2) MMRCL to immediately start the work regarding Geo-tagging and complete the same by 10/11/2024.
- 3) MMRCL to complete work of plantation at Package 1 till the month of November, 2024.

Next meeting is fixed on 14/11/2024 at 6.30 p.m.

sd/-

[Shri Sarang V. Kotwal, J]

sd/-

[Smt. Revati Mohite Dere, J]



64



MINUTES OF THE MEETING IN

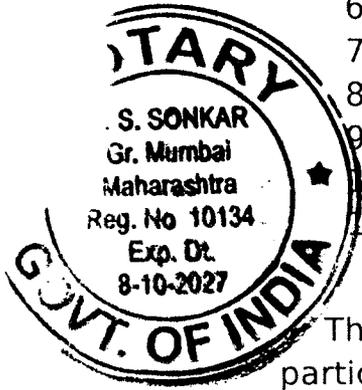
W.P. No.814 of 2017 and W.P (L) No.365 of 2017

Held on 9th October, 2023

REGARDING METRO III TREE CUTTING AND TRANSPLANTATION

Following persons were present:-

1. Smt. Nina Verma, Petitioner a/w Mr. Zoru Bhatena, representative of Petitioner
2. Advocate Omprakash Jha a/w. Advocate Roop for MMRCL a/w. Shri Shashikant L. Damle, AGM, MMRCL
3. Advocate Shashikant Chaudhari and Advocate Mahesh H. Chand, for MSLSA
4. Advocate Kunal Birwadkar a/w. Advocate Shraddha Birwadkar.
5. Advocate Sagar Patil, for MCGM
6. Shri Amit P. Walawalkar
7. Shri Subhash K. Patne
8. Mrs. Revati Kulkarni, Deputy Director, SGNP
9. Shri Ajay T. Fulmali, Advisor, Senior DGM MMRCL
10. Shri Vivek Rane, Horticulturist, MAPLE, MMRCL
11. Shri Yogesh V. Kadam, Horticulturist, MMRCL



The Meeting commenced with self-introduction of all the participants.

The officials and Advocates appointed by MSLSA placed before us the report dated 19th June, 2023 regarding their inspection visit of transplanted sites and new plantation of Metro III. The said report is taken on record and marked as 'X' for identification.

The last meeting of the Committee was held on 16th January, 2020. However, as restrictions were imposed due to Covid-19, there was no site inspection. Therefore, the meeting could not be convened.

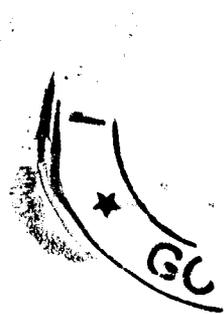
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After perusal of the minutes of meeting dated 16th January, 2020, it appears that there were directions to MMRCL to consider the appointment of Shri Vaibhav Raje, Tree Expert/Arborist, so as to bring him on board. The officials of MMRCL submitted that they have not appointed Shri Vaibhav Raje, as he was unwilling to continue.

In the last minutes it was observed that MMRCL/MGCM should consider hiring machines for replantation of trees and for extraction of trees wherever feasible and as advised by the Tree Expert. The MMRCL officials submitted that they have not purchased or imported such machines till date. On the contrary they have appointed two other people as Tree Experts.

On perusal of the inspection report 'X', it appears that the survival rate has come down to 35%. Report 'X' states that the dead trees are not removed from the place of their replantation. It is suggested to remove the dead trees. The MMRCL officials submitted that to remove such dead trees from the concerned spots, prior permission of the MCGM is required and they have already submitted the proposal for removal of those trees to the Corporation, which is pending.



The Committee has raised a concern on the survival rate has come down as the MMRCL has stopped taking care in the last three years. If the trees are cut they have to be replaced by planting new trees of same size and the same should be taken care of.

From petitioner's side grievance was raised that the plants which are replanted on the places where the construction work is completed are not as per the affidavit/undertaking given by MMRCL before the Hon'ble Court. Moreover, they have not given the details of the type of plants they are going to plant and whether those are

bushes or plants or trees. They have identified the spots where the trees would be planted on the completed sites.

Mr. Zoru Bhatena - representative of the Petitioner and Mr. Kunal Birwadkar - the Intervenor in the petition have raised a grievance regarding the decreasing number of survival rate of transplanted trees. According to them, the work of transplantation is not done with requisite sincerity and sensitivity. There is no planning as to the proper identification of the trees and identification of places where the trees are to be transplanted. They have not adopted scientific and mechanized methods for transplantation. According to them the trees are transplanted in haphazard manner in marshy places and hence survival rates are lower. They have given several other reasons for lower survival rates. There is no proper mechanism for identification of transplanted trees as well as compensatory trees. In spite of earlier directions, Geo-tagging of the trees is not done properly.



The Advocate for the MMRCL informs that the work of Metro is on the verge of completion. The construction work of Stations are completed and only the work of cabling, signal is to be done. He further assured to complete the work of Geo-Tagging of all surviving transplanted trees and compensatory replanted trees expeditiously. As far as purchase of machines are concerned, he stated that the machines could work in specific environment and environment of Mumbai is not such conducive. He further informs that the MMRCL have already invited tenders for the species of trees that could be planted on the available open spaces utilized for construction of Metro Stations. He has assured to provide the timeline along with exact location and the species of trees to be planted. During the meeting the officials of MMRCL informed that MMRCL was to take

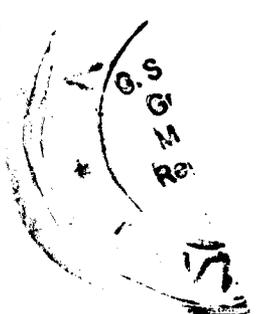
care of plantation/replantation of trees till the period of three years only.

Hon'ble High Court in Writ Petition (O) No 814 of 2017 in para No.10 of order dated 05.05.2017 observed as under :

In this regard, he has drawn our attention to the affidavit of Mr. Ashok Bhasme, Deputy General Manager of the MMRCL dated 09/03/2017. In para 3, it is stated that the MMRCL will ensure as under:

*"The Stations of the Metro Line -3 are also going to be underground, with only certain structures for access, ventilation and other miscellaneous allied services being above ground. Although constructions of such stations does not entail cutting / removal of trees, on completion of the station construction, almost 90 - 95% of the area affected will be restored a level vacant area and only 5-10% of the area will be utilized for access, ventilation and other services etc. Accordingly, MMRC will ensure that trees equivalent to the number of trees affected (i.e. both trees cut and trees removed for transplantation) will be planted in the said area on completion of the station construction work. MMRC will take steps to ensure that trees of adequate girth of about 18"-24" are made available & are planted in the said affected area. MMRCL will also ensure for a period of three years thereafter such planted trees are looked, safeguarded & maintained. Accordingly, MMRC will ensure that there is no loss of tree cover in all the areas affected by station construction."
(Emphasis supplied)*

In view of the above observations and the Undertaking given by the MMRCL in the Court, the contention of the MMRCL that their liability was only for the three years cannot be accepted. The Order of the Court is very clear that, MMRCL is bound to take care of the trees for a period of three years after the completion of project, which is yet to be completed.



[Signature]

Observations / Directions

1. MMRCL to identify the exact sites and specific species that are to be planted and submit the list to MSLSA within four weeks from today, so as to conduct joint inspection at such sites by package/area wise.
2. Geo-Tagging of surviving transplanted trees to be completed within four weeks and start Geo-tagging of compensatory trees and submit its progress report on or before the next meeting.
3. MMRCL to forward the copies of the pending proposals regarding removal of dead replanted trees to the MCGM forthwith. The officials of MCGM to dispose of such applications within 4 weeks. The MMRCL is directed to remove all such dead trees from the concerned spots or place expeditiously after such approval from the MCGM.
4. MMRCL is directed to plant new trees at all places wherefrom such dead trees are removed and submit the compliance report to that effect to the MSLSA.
5. MMRCL is directed to submit detailed plan showing the places where the transplantation and plantation is proposed to be done to the MSLSA within four weeks from today.
6. As per the directions of earlier minutes of meeting of Committee (headed by the then Hon'ble Shri Justice Shantanu S. Kemkar and Hon'ble Shri Justice B.R. Gavai) held on 5th July, 2018 (Observation No.6), the MCGM was directed to keep a watch to ensure that the transplanted trees grow in healthy manner. However, such directions seem to have not been properly followed by the officials of the MCGM. Thus, the MCGM is directed to comply with the above said directions.



100

7. The Committee (headed by the then Hon'ble Shri Justice B.R. Gavai and Hon'ble Shri Justice A.A. Sayed) in the minutes dated 29th January, 2019 has observed in Para No.3 as under:-

"The Committee in its minutes dated 5th July, 2018 has recorded various observations and also suggestions regarding "Suggested Best Practices". Some of the suggestions were with regard to Geo Tagging of the plants, Video recording of the process of transplantation and using of modern technology for the purpose of transplantation."

However, the said directions are not followed by the MMRCL. We, therefore, direct the MMRCL to complete the process of Geo Tagging as early as possible and submit the compliance report on or before the next date.

8. The Committee further directs that the MMRCL should take necessary, required / proper care to safeguard and maintain the 35% surviving trees so that such percentage is not further reduced.

(Sarang.V. Kotwal J)

(Smt Revati Mohite-Dere J)

