

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

Original Application No.100 of 2024(WZ)

Vanashkati & another

...Applicant

VERSUS

The Municipal Corporation for Greater Mumbai

And Others

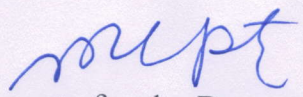
... Respondents

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Pune

Date: 02/12/2024


Advocate for the Respondent No.7,8

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IN THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION No. 100 of 2024.

BETWEEN:

Vanashakti and another.. . . .Applicants

Versus

The Municipal Corporation for Greater Mumbai
And others.. . . .Respondents

Reply on behalf of Respondents Nos. 7 and 8

I, Ms. Karishma Kawade, Assistant Conservator of Forests, currently posted at Yeoor Range, Sanjay Gandhi National Park Division ['SGNP' for brevity] do hereby solemnly affirm and state as follows:

1] I have been duly authorized by the Respondent No. 7 [Additional Principal Conservator of Forests – Wildlife (West)] and Respondent No.8 [Chief Conservator of Forests and Director, SGNP] to file this affidavit on their behalf. I am filing this affidavit on the basis of the Division office records of the SGNP which are maintained in the regular course of official business and which I believe to be true and correct.

2] I say and submit that the applicants in this Original Application (O.A.) have raised concerns regarding the

conservation and protection of the hills in the Dindoshi region of Mumbai, with a specific focus on the land identified as CTS No. 827A/4A/1, Malad East (formerly Survey No. 239/1 part). They allege that the hills in this area are being systematically levelled, trees and vegetation are being intentionally set on fire, and the watercourse of the Walbut Nalla, which flows through the site, is being obstructed. These actions are purportedly aimed at making the plot suitable for commercial development. The applicants claim that these activities are being carried out by Respondents Nos. 10 and 11, who are currently in possession of the land.

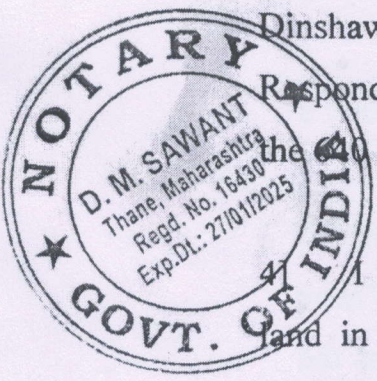
I say and submit that the CTS No. 827A/4A/1, Malad East, was originally part of Survey No. 239/1, Malad East, which spanned approximately 1,488 acres in 1975, as per records maintained by the Sanjay Gandhi National Park (SGNP). In August 1975, two notices were issued under Section 35(3) of the Indian Forest Act, 1927, to F.E. Dinshaw, the recorded owner of Survey No. 239/1 (as per 7/12 records), for the acquisition of approximately 1,488 acres of private forest land under the Maharashtra Private Forest (Acquisition) Act, 1975 (MPFA).

In response, the F.E. Dinshaw Trust stated that they did not possess 640 acres of this land, as it was under acquisition by the Brihanmumbai Municipal Corporation (BMC) for the relocation of cattle stables. The Trust subsequently handed over possession of 848 acres, 29 gunthas, and 12 annas to the Forest Department. However, the Trust filed Miscellaneous Petition No. 1475/1976 in the High Court. Considering the "development" carried out by the BMC and other factors, it was decided to limit the acquisition



to 848 acres. Consent terms were filed before the High Court in December 1979, wherein the 848 acres, 29 gunthas, and 12 annas were declared as private forest vested in the government, and the 640 acres were excluded from acquisition, as it was not considered private forest due to its acquisition by the BMC (Respondent No. 1 in this O.A.).

The land in question in this Original Application (O.A.) forms part of the 640 acres held by Respondent No. 1 and, therefore, was never acquired as "private forest" under the Maharashtra Private Forest (Acquisition) Act, 1975 (MPFA). Subsequently, some portion of land from these 640 acres was returned to the F.E. Dinshaw Trust. Additionally, the F.E. Dinshaw Trust has filed Writ Petition No. 2870 of 2021 against Respondent No. 1, seeking the return of the remaining portion of the 640 acres.



I say and submit that the records clearly indicate that the land in question in this Original Application (O.A.) does not qualify as "forest" under the Indian Forest Act, 1927, nor has it been notified as a "protected area" under the Wildlife (Protection) Act, 1972. Additionally, possession of this land has never been with the Sanjay Gandhi National Park (SGNP) or any other division of the Forest Department of the State of Maharashtra.

5] I say and submit that on 5th December 2016, the Eco-Sensitive Zone (ESZ) of the Sanjay Gandhi National Park (SGNP) was notified by the Central Government under the

Environment (Protection) Act, 1986 (EPA). According to the report of the Joint Committee, which inspected the site following the order dated 10th May 2024, of this Hon'ble Tribunal, certain portions of the land in CTS No. 827A/4A/1, Malad East, fall within this ESZ.

6] I say and submit that in its order dated 10th May 2024, in this Original Application (O.A.), this Hon'ble Tribunal directed the formation of a Joint Committee comprising senior officers. The Tribunal further instructed the Committee to inspect the site of the alleged environmental degradation and submit a detailed report.

7] I say and submit that in compliance with the said order, a Joint Committee was constituted comprising Respondent No. 7 as the Nodal Officer, the Deputy Municipal Commissioner of Zone 7 (Respondent No. 1), Executive Engineers from the Thane Irrigation Division, Kalwa, Thane, and Respondent No. 8 as the Member Secretary. The Committee, along with Applicant No. 2, conducted an inspection of the site on July 24, 2024.

8] I say and submit that the aforementioned Joint Committee prepared a detailed inspection report, which has been submitted to this Hon'ble Court through Respondent No. 7 and is part of the record in these proceedings. The present Respondents, who were members of the Joint Committee, confirm and endorse the contents, observations, and recommendations of the said report. To maintain brevity and avoid unnecessary repetition, the report

is not reproduced or quoted here. However, I respectfully seek leave to refer to and rely upon the report as needed.

9] The land in question, while adjacent to a pristine forest, does not fall under the jurisdiction of the Respondent No. 7 & 8. Consequently, despite the observation of certain unsavoury activities, as detailed in the Report, the Respondent No. 7 & 8 lacks the lawful authority to intervene on this land.

I, therefore, respectfully submit that appropriate orders, directions, or recommendations may be issued in this Original Application (O.A.).

AFFIDAVIT

I, Ms. Karishma Kawade, Assistant Conservator of Forests, currently posted at Yeoor Range, Sanjay Gandhi National Park Division do hereby solemnly affirm and state on behalf of Respondent No. 7 and Respondent No.8 that the contents of this affidavit are on the basis of the Division office records of the SGNP which are maintained in the regular course of official business and which I believe to be true and correct.

Solemnly affirmed at Thane)
On this 02nd day of December 2024.)

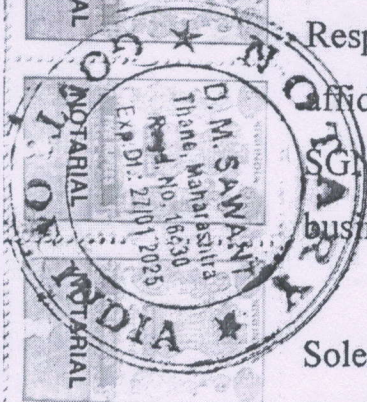
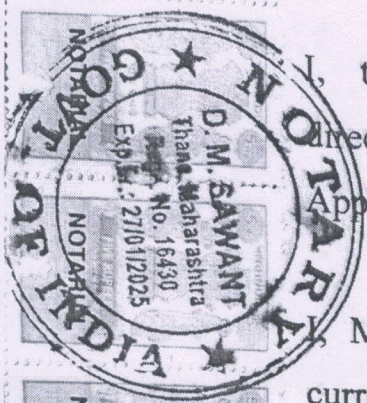
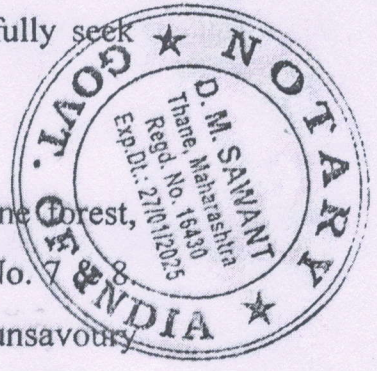
BEFORE ME

Karishma 02/12/24
(Karishma Kawade)

Assistant Conservator of Forests
Sanjay Gandhi National Park Division
For Respondents nos. 7 and 8

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Noted & Regd. No. 15197/2024



BEFORE THE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE, PUNE

Original Application No.100 of 2024

In the matter of :

Vanashkati & another Applicant

Versus

The Municipal Corporation

For Greater Mumbai & others

Respondents

Reply Affidavit of Respondent No.7,8

DATED 2nd December, 2024

D.M.GUPTA

ADVOCATE FOR
RESPONDENT NO.7,8

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