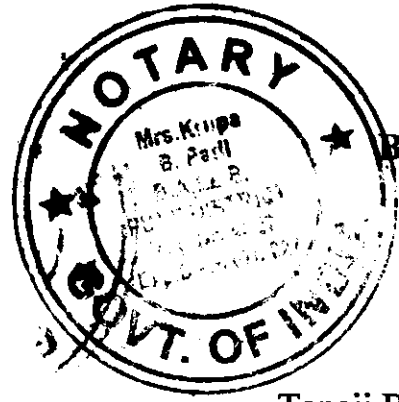


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BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

OA NO. 97 OF 2022 (WZ)

Tanaji Balasaheb Gambhire

Applicant

Versus

Union of India & Ors.

Respondents

**MOST RESPECTFULLY SHEWETH:**

I, Ashok Digambar Ghorpade, Age: Adult, Member Secretary, Tree Authority, Pune Municipal Corporation, Authorized Signatory on behalf of Respondent No. 12 to 16 hereinafter referred to as "PMC" do state on solemn affirmation on behalf of PMC as under:

1. I am the Member Secretary, Tree Authority, Pune Municipal Corporation and Authorized Signatory on behalf of PMC. I have read the Original Application and I am acquainted with the facts hence filing the present Affidavit in Reply on behalf of PMC herein.
2. At the outset, I denied all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconstant with what is stated in the present Affidavit in Reply. Nothing contained in the Original Application, should deemed to be admitted by the PMC for want of specific traverse

unless the same has been specifically admitted herein below. The present Affidavit in Reply is filing to the purpose to oppose the contentions raised in the Original Application against the PMC. I crave leave of this Hon'ble Tribunal to file Additional affidavits as and when the occasion so arises.

3. It is submitted that Applicant has filed present OA relating to commercial and residential building project namely, "Park Landmark" at situated at S. No. 665/A, Village Bibvewadi, Taluka Haveli, District Pune.

**Prayers sought under the present Original Application.**

- a. *Original Application may kindly be allowed.*
- b. *Direct the Respondents to demolish the illegal structure at site in question with restoration & restitution of the area to its original position;*
- c. *Direct the Respondent No. 22-PP to deposit the heavy amount of compensation for illegal felling of trees & non-plantation of the compensatory trees causing adverse impact of environment & ecology.*
- d. *Direct the Respondent No. 22-PP to carry out the plantation of more than 50000 indigenous trees/sampling on his own land within the jurisdiction of PMC with geo-tagging for scientific growing, protection for next 10 years.*

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- e. That this Hon'ble Court may be pleased to pass an order, thereby directing Respondent No. 22-PP to deposit the heavy amount of environment compensation along with restitution & restoration cost on account of illegal construction carried out in contravention of the terms & conditions of Environment Clearance & Consents.
- f. Direct the Respondent Competent Government Authorities to initiate criminal proceedings against the erring officers of PMC, SEIAA, MPCB etc.
- g. Direct Respondent No 12-Commissioner-PMC to take action against Respondent No. 15-Mr. Ashok Ghorpade-Chief Garden Superintendent of PMC and Respondent No. 15-Mr. Santoshkumar Kamble- Former Assistant Superintendent, Garden Dept. of PMC for their involvement, negligence, collusion with PP in preparing false & bogus compliance reports on account of compensatory plantation, felling permissions, etc. and recover the amount of damages/Fine/Cost from salary of Respondent No. 15 & 16.
- h. Direct Respondent No. 12-Commissioner-PMC to forfeit all the benefits arising from present project site including FSI & TDR etc., with permanent prohibition on construction.
- i. Direct the Respondent No. 17-Vice-Chancellor of Pune University to take action against Respondent No. 18-Dr. S.S.

*Deokule-HoD of Botanical Department of Pune University for his involvement, negligence, collusion with PP in preparing false & bogus compliance reports on account of compensatory plantation, felling permissions, etc. and recover the amount of damages/Fine/Cost from salary of Respondent No. 18.*

- j. Direct Respondent No. 7-SEIAA and Respondent No. 9-MPCB to initiate appropriate legal action of prosecution against the Respondent No. 12-PP for violation of the provisions of EIA Notification-2006 and other applicable pollution control laws.*
- k. Cost of this application may kindly be granted to these applicants.*
- l. Any other just and equitable reliefs in the interest of environmental justice in the facts and circumstances of the present case.*

#### **4. FACTS RELATING TO THE PROJECT "PARK LANDMARK"**

- i. It is submitted that "Park Landmark" is a Residential and Commercial building construction project developed by Respondent No. 22-M/s. Pride Purple Landmark LLP-PP at S. No. 665/A, Village Bibvewadi, Taluka Haveli, District Pune.**

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- ii. It is submitted that vide Architect's Application dated 30/09/2011, Provisional NOC was sought for the site at S. No. 665/A, Village Bibvewadi, Taluka Haveli, District Pune. Provisional NOC was granted vide letter dated 13/12/2011 by the Tree Authority of PMC. It is submitted that at the time of granting NOC, total 786 trees were there at the site.
  
- iii. I say and submit that during 2009 till 20/09/2013 there was a stay to fell/transplant trees within the limits of Pune Municipal Corporations without obtaining permission from the Hon'ble Bombay High Court in PIL No. 93 of 2009 Deepak Balkrishna Vahikar & Ors. Vs. The State of Maharashtra & Ors.
  
- iv. The Project Proponent filed a Civil Application being CAP 180 of 2012 in PIL 93 of 2009 before the Hon'ble Bombay High Court, seeking permission to cut 17 trees and transplant 13 trees. After hearing both the sides the Division Bench of Hon'ble Bombay High Court vide order dated 01/07/2013 was pleased to allow the said Civil

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Application upon certain terms. The relevant part of the said order is reproduced herein as below,

Quote

*(a) The Applicant shall file a written undertaking of an authorized representative stating –*

*i. That in compliance with the report of the expert committee, three new trees shall be planted for every existing tree to be felled;*

*ii. That the trees to be planted shall be of local species;*

*iii. That a plan shall be annexed to the undertaking earmarking the places at which the trees shall be replanted;*

*iv. The name of the person/agency which shall carry out the plantation;*

*v. The trees which are to be replanted shall not be small saplings, but shall be half grown trees of a sufficient growth which shall ensure their survival; and*


*vi. The Applicant shall continue to maintain the aforesaid trees after the plantation or, as the case may be, uprooting of the trees.*

*vii. The Applicant shall not use or develop the property on which the plantation is to be done, in such a manner which will adversely affect the growth or survival of the trees planted/ transplanted thereon.*

*viii. The work of transplantation shall be done by an agency to be nominated by the Garden Superintendent of the Pune Municipal Corporation or the Deputy Municipal Commissioner concerned and*



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*subject to the due supervision of the Garden Superintendent of the Pune Municipal Corporation or the Deputy Municipal Commissioner concerned who shall personally verify as to whether the transplantation has been carried out properly with a view to ensuring the survival of the tree or the trees, as the case may be.*

*(b) A copy of the undertaking shall be supplied to the Petitioner and shall be placed on the record of these proceedings within a period of two weeks from today;*

*(c) The Tree Officer of the Pune Municipal Corporation shall be personally responsible for verifying as to whether the undertakings which have been furnished to the Court have been duly complied with. The Petitioner shall bring to the notice of the Court any dereliction on the part of the deponent in complying with the undertaking.*

Unquote

Hereto marked and annexed as **Annexure A** is the copy of order dated 01/07/2013 in CAP No. 180 of 2012 in PIL No. 93 of 2009.

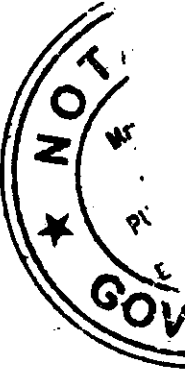
- v. I say and submit that on 20/09/2013 Hon'ble Bombay High Court was pleased to dispose off PIL No. 93 of 2009 laying down the procedure to be followed for cutting/transplanting of trees within urban areas under The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.
- vi. It is submitted that vide Application dated 09/04/2014 permission was sought for cutting 149 trees and transplanting 47 trees. Permission was granted for cutting of 149 trees and transplanting 47 trees on the conditions of planting of new 588 Trees and depositing an amount of Rs 19,60,000/.
- vii. It is submitted that vide Application dated 11/05/2016 permission was sought for cutting 149 trees and transplanting 56 trees. Permission was granted for cutting of 149 trees and transplanting 56 trees on the conditions of planting of new 615 Trees and depositing an amount of Rs 20,50,000/.

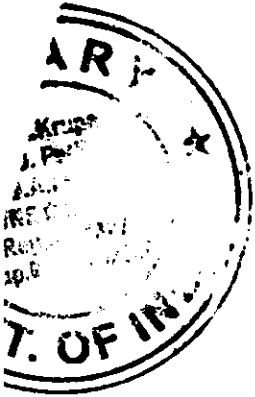




xii. I say and submit that PMC has a deposit of Rs. 43,10,000/- collected from Respondent No. 12 and PMC have not refunded any amount of the deposit till date.

5. It is submitted that Applicant has made frivolous, baseless and unsubstantiated allegations against the answering Respondents No. 12 to 16. The answering Respondents crave leave to file a detailed Affidavit-in-Reply as and when sought necessary. I say and submit that Respondent Corporation is committed towards sustainable development.
6. I say and submit that Pune Municipal Corporation is a local authority within the definition of Maharashtra Municipal Corporation Act, 1949 and as such is the appropriate authority under the MRTP Act for the purpose of granting permissions under the MRTP Act. PMC being a planning authority, has granted various permissions under the provisions of Development Control Rules, Maharashtra Regional and Town Planning Act, 1966.

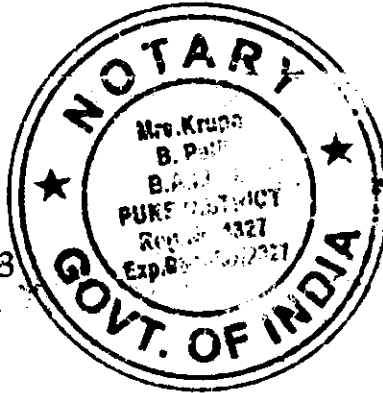


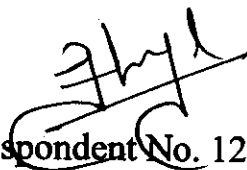


7. Therefore, neither the Pune Municipal Corporation nor any of its officer/servant has violated any provision under the law on the contrary has always followed the due procedure, functioned in accordance with the law and hence it is requested before this Hon'ble Tribunal that no adverse order may be passed against the PMC.

Pune

Date: 7/12/2023



  
Respondent No. 12 to 16.

Member Secretary, Tree Authority

Pune Municipal Corporation



Advocate for Respondent No. 12 to 16

*[Faint, illegible text]*

*[Faint, illegible text]*

*[Faint, illegible text]*

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VERIFICATION

I, Ashok Digambar Ghorpade, Age Adult, Member Secretary, Tree Authority, Pune Municipal Corporation, Pune, do hereby verify that the contents of running paragraphs are true to my knowledge/based on records of the maintained in the ordinary course of business.

Solemnly Affirmed

Pune

Date: 7<sup>th</sup> day of December, 2023.

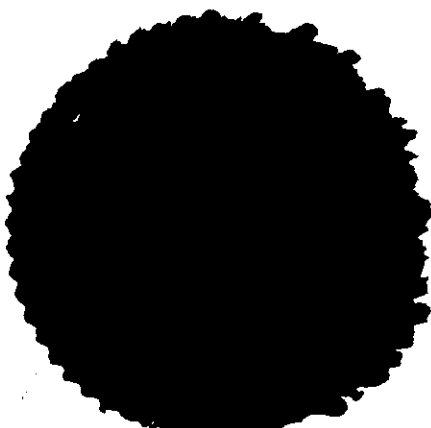


*[Signature]*  
Advocate for Affiant.

*[Signature]*  
Affiant (For Respondent No. 12 to 16)

Member Secretary, Tree Authority

Pune Municipal Corporation

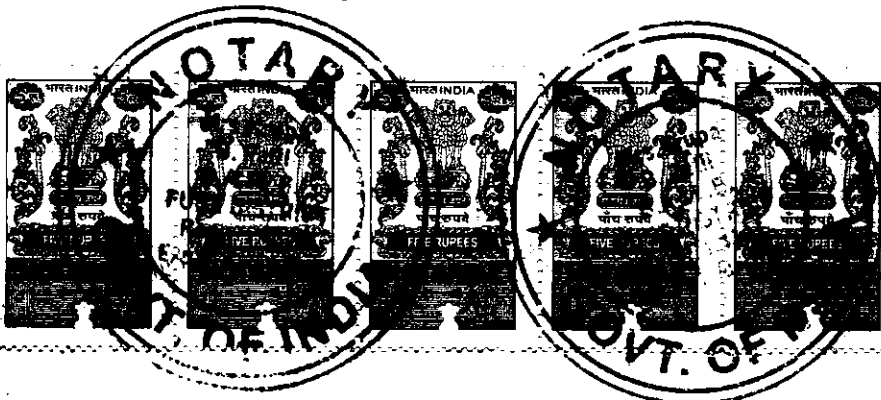


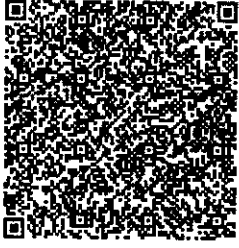
**BEFORE ME**

*[Signature]*  
**MRS. KRUPA B. PATIL**  
**ADVOCATE & NOTARY**  
**GOVT. OF INDIA**  
**PUNE DISTRICT**

**NOTED & RECD.**  
**Sr. No. A194/23**

7 DEC 2023





IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.180 OF 2012  
IN  
PUBLIC INTEREST LITIGATION NO.93 OF 2009

Pride Purple Landmark LLP	Applicant
<u>In the matter of :</u> Deepak Balkrishna Vahikar and others	Petitioners
versus	
The State of Maharashtra and others	Respondents

Mr.Vishwajeet Kapse for Applicant.  
Mr.Ramakant Paranjpe i/by Mr.J.D.Khairnar and Vithal Kale for the  
Petitioner.  
Mr.Ashutosh Kumbhakoni with Dr.Sadhana Mahashabde for Respondents  
2 and 3.  
Mr.Prashant Darandale, Asstt. to G.P. for Respondents 1 and 4.

CORAM : DR.D.Y.CHANDRACHUD AND  
S.C.GUPTA, JJ.

DATE : 1 July 2013

PC :

1. The Applicant seeks permission to cut down 17 trees, transplant 13 trees and plant 51 trees for the purposes of constructing a new building pursuant to a commencement certificate issued by the Pune Municipal Corporation. The expert committee has recommended the proposal. We grant permission to the Applicant subject to following conditions :

(a) The Applicant shall file a written undertaking of an authorized representative stating -



- i. That in compliance with the report of the expert committee, three new trees shall be planted for every existing tree to be felled;
- ii. That the trees to be planted shall be of local species;
- iii. That a plan shall be annexed to the undertaking earmarking the places at which the trees shall be replanted;
- iv. The name of the person/agency which shall carry out the plantation;
- v. The trees which are to be replanted shall not be small saplings, but shall be half grown trees of a sufficient growth which shall ensure their survival; and
- vi. The Applicant shall continue to maintain the aforesaid trees after the plantation or, as the case may be, uprooting of the trees.
- vii. The Applicant shall not use or develop the property on which the plantation is to be done, in such a manner which will adversely affect the growth or survival of the trees planted/ transplanted thereon.
- viii. The work of transplantation shall be done by an agency to be nominated by the Garden Superintendent of the Pune Municipal Corporation or the Deputy Municipal Commissioner concerned and subject to the due supervision of the Garden Superintendent of the Pune Municipal Corporation or the Deputy Municipal Commissioner concerned who shall personally verify as to whether the transplantation has been carried out properly with a view to ensuring the survival of the tree or the trees, as the case may be.



(b) A copy of the undertaking shall be supplied to the Petitioner and shall be placed on the record of these proceedings within a period of two weeks from today;

(c) The Tree Officer of the Pune Municipal Corporation shall be personally responsible for verifying as to whether the undertakings which have been furnished to the Court have been duly complied with. The Petitioner shall bring to the notice of the Court any dereliction on the part of the deponent in complying with the undertaking.

2. Subject to the undertaking being filed in the aforesaid terms and conditional thereon, the Civil Application is made absolute in the aforesaid terms.

(DR.D.Y.CHANDRACHUD, J.)

(S.C.GUPTE, J.)

MST