

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

1022

SITTING AT PUNE

ORIGINAL APPLICATION NO. 49 OF 2024

BETWEEN :

PRATAP LAL TELI

...

APPLICANT

VERSUS

SECRETARY, ENVIRONMENT DEPARTMENT,

GOVERNMENT OF MAHARASHTRA & ORS.

...

RESPONDENTS

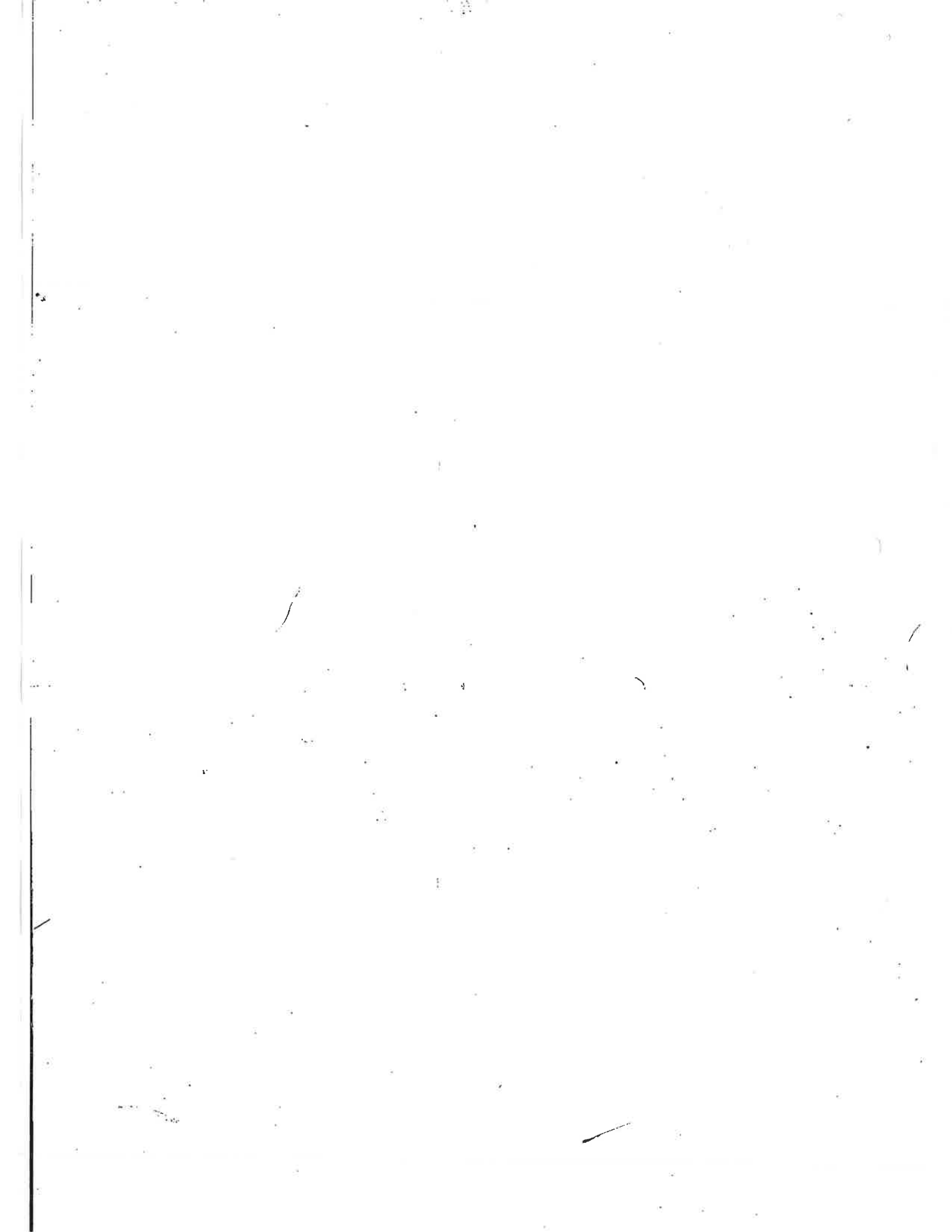
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Date: 12.09.2025



Advocates for Respondent No. 5



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WRITTEN ARGUMENTS ON BEHALF OF RESPONDENT NO. 5

1. Respondent No. 5, The Indian Film Combine Pvt. Ltd. ("IFCPL") has filed its Affidavit in Reply dated 11.11.2024 ("said Reply") to the OA. The OA, has been filed on 15.02.2024, *inter alia*, challenging permitted redevelopment by Respondent No. 5, of an existing drive-in-theatre, into an integrated composite project ("said Project").
2. Whereas Respondent No. 5 has raised various preliminary objections, including but not limited to the maintainability of the OA, limitation and the locus & conduct of the Applicant, the chronology of events (as detailed in the List of Dates at Annexure A hereto), would demonstrate that the OA is lacking in merits and ought to be dismissed.
3. With a view to satisfy the conscience of this Hon'ble Tribunal on the legality, permissibility and compliance of the said Project, each of the allegations of the Applicant is dealt with on merits as under.

Allegation : Construction of the said Project is being carried out within 50 mtrs. mangrove buffer zone without any prior permission

4. It is submitted that the allegation that the construction of the said Project is being carried out within a mangrove buffer zone without prior permission is without merit. The said Project does not fall within 50 mtrs. mangrove buffer zone and the allegation made is contrary to facts.
5. As per the approved CZMP of 2000, the said Project fell in CRZ-II area, where development was permitted as per DCR. It is a matter of record and not in dispute that the CRZ Notification 1991 had no provision for a buffer zone in respect of mangroves

for CRZ-II areas. (See Classification Category II, CRZ-II, Para 6(1), Annexure 1, to CRZ Notification 1991 @ Page 567)

6. Grant of CRZ Clearance on 06.08.1999 (Ex.H/Pg.329), for the integrated project, is not in dispute. The same has been taken into consideration by all sanctioning authorities including MMRDA, MCZMA and the Environment Department, GOM.
7. CRZ Notification 1991 was superseded by CRZ Notification 2011 dated 06.01.2011 (Ex. JJ/Pg. 593) wherein it was provided as under :

“7. Classification of the CRZ – For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely:-

(i) CRZ-I-

A. The areas that are ecologically sensitive and the geomorphological features which play a role in the maintaining the integrity of the coast,-

(a) Mangroves, in case mangrove area is more than 1000 sq mts, a buffer of 50meters along the mangroves shall be provided;

...

(ii) CRZ-II-

The areas that have been developed upto or close to the shoreline.

Explanation.- For the purposes of the expression “developed area” is referred to as that area within the existing municipal limits or in other existing legally designated urban areas which are substantially built-up and has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains;

...

8. Norms for regulation of activities permissible under this notification,-

...

II. CRZ-II,-

(i) buildings shall be permitted only on the landward side of the existing road, or on the landward side of existing authorized structures;

...”

A mere reading of the aforesaid provision demonstrates that even under the CRZ, 2011, areas that were developed up to, or close to the shoreline, and have been provided with approach roads and other infrastructure facilities would form part of CRZ-II, where development is permitted on the ‘landward side of existing authorized structures’ under the notification. The Project answers to the definition of “Developed Area” even under CRZ, 2011. Even the said notification had no provision for a buffer zone in respect of mangroves applicable to CRZ-II areas.

8. It is submitted that the issues relating to mangrove buffer zone, are no longer *res integra* and stand settled by judicial determination up to the Hon'ble Supreme Court. In this regard, reliance is placed on the following :

8.1 Bombay High Court, in a PIL seeking urgent measures for protection of mangroves, vide an interim order dated 06.10.2005 in PIL/87/2006–BEAG v. *State of Maharashtra & Ors.*, had, *inter alia*, directed a complete freeze on development activities in areas affected by mangroves and within 50 mtrs. on all sides of all mangroves. During the pendency of the Petition, aforesaid CRZ, 1991 came to be superseded by the aforesaid CRZ, 2011 on 06.01.2011. Pg 579 exhibit II, Relevant direction para- 80 (i)

8.2 By order dated 29.07.2015 (*Ex. KK Pg. 635*) as rectified by order dated 03.09.2015, Hon'ble Bombay High Court in CHS/172/2007 in PIL/87/2006, *inter alia*, considered the interim directions dated 06.10.2005. The Hon'ble Court, after considering the aforesaid interim directions in context of the concerned plots falling under CRZ-II, was pleased to hold as under :

“ ...
 28. It was because there was no such restriction in the CRZ Notification dated 19 February 1991 that this Court had introduced additional safeguard for protection of mangroves, that construction activity was prohibited in the buffer zone area by interim order dated 6 October 2005. Since the restriction is now incorporated in the Notification dated 6 January 2011, as per interpretation placed by us on CRZ Notification dated 6 January 2011, where plot of land falls in 50 meters buffer zone but it was already part of an approved layout with infrastructure facilities within a municipal area or an existing legally designated urban area as on 6 January 2011, then it would have to be treated as falling in CRZ-II, provided the area was substantially developed as per explanation given in CRZ Notification and as explained in this order. In respect of the plots outside the aforesaid approved MoEF layouts, the concerned persons shall move the competent regulatory authority (MCZMA or MoEF), and not this Court.

29. It is clarified that when any CRZ clearance is sought, MCZMA will have to satisfy itself that the plot in question is landward side of the existing road, or on the landward side of existing authorised structures.”

8.3 The Judgment dated 29.07.2015 read with correction order dated 03.09.2015, therefore considered the CRZ, 2011 (as extracted at para 7 above), and laid down that CRZ clearance can be granted in respect of a plot of land falling within 50 mtrs. buffer zone if the plot in question is on the landward side of the existing road or existing authorized structure and is a part of a developed area. This Order was confirmed by Order dated 20.01.2016 passed in SLP (C) No. 533-539 of 2016 (Ex.MM/Pg.669) which was dismissed for want of merit.

- 8.4 A Circular dated 05.03.2018 issued by GOM (Ex. NN/Pg. 670) is also in consonance with the aforesaid position enumerated in the 2015 judgement on the interpretation of the CRZ Notification, 2011.
- 8.5 Vide another judgement dated 17.09.2018 in PIL/87/2006, the Hon'ble Bombay High Court, in the context of the CRZ Notifications and interim order dated 06.10.2005, inter alia, created an embargo on issuing development permissions and construction in mangroves buffer zone of 50 meters in CRZ areas, and also doubting the correctness of its 2015 judgement. (Ex. OO/Pg. 673).
- 8.6 The conflict created by the judgement dated 17.09.2018, now stands settled by the Hon'ble Supreme Court. On 25.02.2025, the Hon'ble Apex Court while considering a challenge to Judgment dated 17.09.2018 passed in PIL/87/2006, with a view to reconcile the conflict between the 2005 order, 2015 judgement and 2018 judgement, inter alia, held as under :

"4.....Accordingly, Notice of Motion No. 234/2015 taken out by Maharashtra Housing and Area Development Board was allowed and it was permitted to exclude the plots in the layouts for which environmental clearance was granted by the Ministry of Environment and Forests on 10.02.2003 and 10.11.2005 from the operation of the 50 meters buffer zone requirement, but subject to the observations therein."

"5. As there was no further restriction in the Coastal Regulation Zone Notification dated 19.02.1991, the High Court of Bombay introduced additional safeguards for protection of mangroves, by barring construction activity in the prohibited buffer zone, by interim order dated 06.10.2005. The additional safeguards in the form of directions given in the interim order dated 06.10.2005, were later on incorporated in the Notification dated 06.01.2011. However, the interim order dated 06.10.2005, and the Notification dated 06.01.2011, exempted a plot of land even if it fell in the 50 meters buffer zone if it was already a part of an approved layout plan with infrastructural facilities within a municipal area or in an existing legally designated urban area as on 06.01.2011. ...

6. In order to carry out the said exercise, i.e., to identify the plots outside the aforesaid approved Ministry of Environment and Forests layouts, the parties concerned were required to move the competent regulatory authority, i.e., the MCZMA or Ministry of Environment and Forests, and not the High Court of Bombay. It was also recorded that when any CRZ clearance was sought, the MCZMA had to satisfy itself that the plot in question was beyond the existing concrete/tar roads towards the landward side and was a part of a developed area; a concept which was explained in the judgment.

9. The order dated 29.07.2015 was challenged before this Court in a special leave petition, and the same was dismissed.

10. The impugned judgment dated 17.09.2018, in paragraph '74' refers to the Chamber Summons, which became the subject matter of the judgment dated 29.07.2015. Thereupon, it states that, while passing the judgment dated 29.07.2015, the attention of the Court was not drawn to condition no. xiii imposed in the letter/order dated 27.09.1996, of the Central Government, by which, the Coastal Zone Management Plan for the State of Maharashtra was sanctioned. It was the condition of the said plan that where mangroves with an area of 1000 sq. meters or more existed, the buffer zone of 50 meters would form part of CRZ I. However, it is an admitted fact that the requirement laid down in the Coastal Zone Management Plan of a 50 meter buffer zone around mangroves of an area of 1000 sq. meters and above, was modified by the Notification dated 19.01.2000, upon satisfaction of the condition stated therein that the buffer zone will not be required on the landward side provided the road abutting such mangroves was constructed prior to February, 1991.

11. In other words, where the road on the landward side abutting the mangroves was constructed prior to February, 1991, the buffer zone of 50 meters was not required. The impugned judgment dated 17.09.2018, disposed of the PIL with several directions, including stoppage of all constructions taking place within 50 meters on all sides of mangroves, regardless of the ownership of the land having such mangroves and the area of the land.

12. In view of the aforesaid position, we may only clarify that the impugned judgment dated 17.09.2018, shall not be read as having modified or altered the conditions which were imposed, vide judgment dated 29.07.2015, in the writ petitions/chamber summons filed by the appellants, provided all the applicable rules and regulations, including the conditions mentioned in the applicable law and in terms of the judgment dated 29.07.2015, are duly met.

13. We further clarify that the observations and findings recorded in above paragraph only pertain to the nine plots, which were the subject matter of the judgment dated 29.07.2015. The said judgment specifically records the details of the nine plots in question and also notes that the said plots were allotted during the period 1987 to 1994 and the infrastructure in the form of laying of roads, etc., had been completed long ago. In other words, as the development has already been completed, it would be impossible to create a buffer zone of 50 meters because of the construction and other development activities which happened long before the interim order dated 06.10.2005. It goes without saying that in case it is possible to create a buffer zone of 50 meters, that aspect must be kept in mind by the authorities concerned while granting approvals."

(Annexure B).

9. An analysis of the indisputable facts emanating from the record qua the said Project would reveal as under :

- a. Respondent No. 5's Plot was allotted for development of Drive-in-Theatre in the 1970's and developed in 1977-78, i.e., much prior to the allotment of Plots referred to in the 2025 Supreme Court Judgement;
- b. CRZ permission for redevelopment of the Plot with existing structures on landward side of the boundary wall was granted to Respondent No. 5 on 06.08.1999;
- c. Layout plan for the redevelopment of the integrated Project was approved by MCGM and Commencement Certificate was issued by MMRDA on 05.12.2001 under CZMP 2000, under which there was no 50-meter mangrove buffer zone effecting the same. Amendments were also sanctioned by the MMRDA on 25.11.2002;
- d. Construction of the said project started on 27.06.2003 (*please see Start Work Notice dated 04.07.2003 Ex.A /Pg.226*) and the plinths of Building 'B' and Building 'C' were constructed prior to 15.05.2004 (*Ex. CC-colly/Pg.464*);
- e. The Plots referred to in the Supreme Court judgment were allotted in the period 1987-1994. The lease for plot in the present case was executed in 1991 with effect from 28.04.1971, and the infrastructure in the form of laying roads etc., therefore had been completed much prior to even allotment of the plots covered in the Supreme Court judgement.
- f. The construction in the Project at hand is on the land ward side of the imaginary line from existing authorized structure as recorded in 121st meeting of MCZMA dated 15/16.09.2017 (*Ex. P/Pg.373*). There is no mangroves buffer zone as per approved CZMP of 2000 in respect of the said plot under CRZ Notification 1991. The same is in line with judicial pronouncements, circulars, CRZ Notifications. Thus, none of the contentions and allegations of the Applicant are warranted and construction of the project has been carried out in accordance with the prevalent law.
- g. It is a matter of record and not in dispute that as per approved CZMP of 2000 there is no 50 m mangrove buffer zone applicable to the Project, and is in CRZ-II Zone. MMRDA approved IFCPL's plans and issued the necessary approvals in 2001, issued Commencement Certificates, and Part OC. Admittedly, MMRDA vide letter dated 16.2.2018 to MCZMA had stated that as per approved CZMP of 2000, there is no 50 m mangrove buffer zone (*Ex. R/Pg.382*).
- h. The MMRDA had submitted in 2017 that-

".....The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary may be

situated between 50 m mangroves buffer zone, which is subject to verification as it is dynamic matter...."

The said submission was considered by MCZMA while revoking the stop work Order.

- i. On 30.06.2018, the **Forest Conservator, Mumbai Mangroves Conservation Unit**, Central Mumbai, on receipt of a complaint and after inspection at site conducted with staff members recorded that (*Ex. V/Pg. 433*) -

"...prima facie it was found that there were no mangroves found nearby at the actual site of construction. An old wall was found at the site. GPS reading of the site was taken for checking on Google Earth and colour photograph of the wall is attached here.

....

As per the above GPS reading, while checking the plans of the plot on the Google Earth App, the wall at the plot mentioned in the complaint exists since long time, and the notified mangrove area is up to 400 meters from the wall. The construction mentioned in the said application is not being done by destroying the mangroves. The said site is outside the notified mangrove area..."

- j. On 04.03.2022 MCZMA, relying solely on a letter dated 03.01.2022 sent to NHRC by Mangrove Cell, inter alia, directed the Respondent No. 5 to obtain permission from the High Court, while ignoring the aforesaid findings of the Forest Conservator and views of the MMRDA. R5 had made representation dated 28.04.2025 which remained pending and was the subject matter of Writ Petition (L) No. 20106 of 2025. The Hon'ble High Court vide an Order dated 10.07.2025, after hearing the parties disposed of the writ petition with the following observations / directions –

"1. In this Writ Petition, the Petitioner inter alia prays for direction to the Respondent to decide the representation dated 28 April 2025 submitted by it seeking permission to complete the project.

2. We have heard learned counsel for the parties at length. After hearing the learned counsel for the parties and taking into account the fact that the representation dated 28 April 2025 submitted by the Petitioner is pending for consideration, we direct that the representation be decided by passing a speaking order thereon.

*3. Needless to state that the Respondent shall give an opportunity of hearing in person or to the representative of the Petitioner before deciding the representation. It is made clear that this Court has not expressed any opinion on merits. Accordingly, Writ Petition is **disposed of.**"*

The said representation also refers to another order of the Hon'ble High Court of Bombay dated 11.12.2023 in Writ Petition No 15318 of 2023 - *Shivtej Builders and*

Developers vs The Navi Mumbai Municipal Corporation & Ors (Annexure C)— which militates against the proposition that any permission from the High Court is required. It appears that MCZMA has not challenged the said judgment dated 11.12.2023 and has accepted the same. Both representations are pending.

10. Without prejudice to the aforesaid, no fresh CRZ clearance was required under the CRZ Notification 2011, which superseded the said CRZ Notification of 1991, as the 2011 notification itself carved an exception on its applicability to the subject project, with specific use of the following words –

“.....except as respects things done or omitted to be done before such supersession...” and “...imposes with effect from the date of the notification the following restrictions....”

11. It is submitted that the Hon’ble Supreme Court’s judgement dated 25.02.2025, determinatively settles the issues in favour of the said project. Any argument that the said judgement cannot be treated as a precedent, is bound to be rejected.

In any event, without prejudice and by way of abundant caution, IFC is also placing on record two judgments to buttress that even in those extreme cases, unlike the present one, where the Hon’ble Supreme Court had specifically stated that considering peculiar facts of the case its Order shall not be treated as binding precedent, judicial bodies on finding that the petitioners before them also had same peculiar facts followed the same course adopted by the Hon’ble Supreme Court-

- (i) Judgment dated 25.04.1989 in D. NAVINCHANDRA & CO. v. Union of India – 1989 (43) ELT 266 (Bom.) -

“3. Mr. Shringarpure further pointed out the operative part of the order of the Supreme Court wherein it has been recited as under:-

“We would like to emphasise that since we have decided the matter in view of the special facts and circumstances available in these cases, this order will not be treated as a precedent”.

In my judgment, the aforesaid observation cannot come in the way of granting the reliefs prayed for in this petition as the facts and circumstances governing the case of the Petitioner is identical to the facts which were before the Supreme Court. Hence this contention of Mr. Shringarpure is liable to be negated.”

- (ii) Judgment dated 29.09.1993 in Textile Labour Association v. State of Gujarat – 1993 SCC OnLine Guj 140 -

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“22. It is true that the Supreme Court has done this in the peculiar facts of that case and by a subsequent order has further stated that it shall not be treated as a precedent. None the less, when the facts are identical if the High Court adopts the same procedure, reasoning and approach, the High Court will be acting perfectly in accordance with law and justice. If the High Court were to act otherwise, it would be against law and justice.”

12. The allegation that the construction of the project has been divided into two phases, Phase-I purportedly being the non-CRZ component and Phase-2 being the CRZ part of the project, is baseless and contrary to facts. There exists no demarcation of the project into phases. The said project is an integrated project for which requisite CRZ Clearance and building permissions have been obtained as is evident from the Appellate Order dated 15.01.2007 (*Ex. K/Pg.335*) which reiterates that this is an integrated project carried out in the said plot. There is no sub-division of the said plot and the layout and FSI for the entire integrated project has been approved by MMRDA by its layout approval on 05.12.2001 (*Ex. I/Pg.331*). The FSI utilization and provision of recreation ground etc. is based on an integrated master plan and not as per demarcated, sub-divided phases. The Applicant is attempting to mislead this Hon'ble Tribunal by alleging an artificial divide.

Allegation : The said Project does not have Environmental Clearance (“EC”) and therefore in violation of EIA.

13. It is submitted that the said Project does not attract the provisions of the EIA Notification 1994, the amendment dated 07.07.2004 thereto, and/to the EIA Notification, 2006. Reliance is placed on the following dates in this regard :

1.	09.07.1997	Powers delegated to State Government for granting CRZ Clearance for projects with investment above INR 5 crores.
2.	14.06.1999	R5 made application to the State Government, for CRZ Clearance.
3.	06.08.1999	CRZ Clearance was granted by the State of Maharashtra in accordance with CRZ Notification 1991 and CZMP.
4.	05.12.2001	Layout plan was approved by MCGM and Commencement Certificate was issued by MMRDA.
5.	25.11.2002	Amendment of the approved layout plan was also approved by MMRDA by issuance of CC.
6.	22.04.2003	Powers earlier delegated to State Government qua CRZ Clearance of projects with investment above INR 5 crores were revoked, by an amendment to CRZ Notification 1991.

14. From the aforesaid, it is apparent that the said Project received CRZ Clearance from State of Maharashtra on 06.08.1999, and was sanctioned by the MMRDA on 05.12.2001. Amendments were also sanctioned by the MMRDA on 25.11.2002, pursuant to which work was commenced.
15. The relevant period for obtaining EIA clearance, if at all required, was the period 2001-2003. During this period, the notification governing the grant of EIA clearances was the EIA Notification 1994, as amended from time to time, which was not applicable to construction projects. However, since the Project was falling under a CRZ area, clearance under the CRZ Notification was already obtained on 06.08.1999. The amendment to EIA Notification 07.07.2004, did not change this position.
16. Without prejudice to the aforesaid, it is submitted that construction of the said project started on 27.06.2003 (*please see Start Work Notice dated 04.07.2003 Ex.A /Pg.226*) and the plinths of Building 'B' and Building 'C' were constructed prior to 15.05.2004 (*Ex. CC-colly/Pg.464*). Therefore, even as per the Explanation (i) of the Amendment dated 07.07.2004, the said Project, being prior to the cut-off dated did not require EC under EIA Notification 1994 as amended up to 07.07.2004. The same is fortified *vide* Judgment dated 06.08.2024 by Hon'ble High Court of Bombay in Writ Petition No. 363 of 2020 – *Haroon Ebrahim Patel v. State of Maharashtra & Ors.*, wherein construction of one of the buildings was completed up to plinth level by 05.03.2003, i.e., before 07.07.2004, the Hon'ble Court has held that EC required under EIA Notification shall not be necessary for such projects where construction has reached the plinth level as per EIA Notification 1994 amended up to 07.07.2004 (**Annexure D**).
17. EIA Notification 2006: EIA Notification dated 14.09.2006 on the face of it is prospective and applies only to "new projects" and expansion or capacity addition in respect of existing projects. It does not apply to IFCPL's Project which had already been sanctioned and on which construction work had been commenced based on CRZ clearance under CRZ Notification 1991, and as no additional area is intended to be put up by IFCPL in respect of the Project, the Project did not amount to a "new project" or an expansion or capacity addition in respect of an existing project under the provisions of EIA Notification 2006.
18. The allegation that the Planning Permission granted vide the order of the Appellate Authority dated 15.01.2007 does not rely on the EIA Notification 2006 is also without merit. The said order dated 15.01.2007, was passed in an appellate proceeding under

Section 47 of the MRTP Act, testing the validity of the order dated 14/16.12.2004 passed by MMRDA. The order dated 15.01.2007, was therefore passed on the basis of the hearing dated 14.06.2005, and corrected the error committed by the MMRDA on 14/16.12.2004 and rightly held that the said project has been approved under CRZ provisions and is excluded from the scope of EIA Notification 1994 as amended by Notification dated 07.07.2004. The EIA Notification 2006, which came into existence post the hearing of the appeal, could therefore not have been germane to the entitlement of R5 to develop the Project as on 14/16.12.2004.

Further, the said appellate order has not been challenged till date and thus, has attained finality. The Applicant has incorrectly relied on the EIA Notification 2006 which came into force after the construction of the said project had already started in accordance with all applicable permissions under law. Therefore, the question of relying on EIA Notification 2006 or obtaining prior environmental clearance does not arise. The same is also fortified by letter dated 05.03.2018 (*Ex. T/Pg. 423*) of GOM clarifying that the said project does not require any further environmental clearance and specifically finding that the EIA Notification of 2006 is not applicable to this project for the reasons stated therein.

Allegation: The permission for the Project constitutes a change in use of said plot.

19. It is submitted that the Government of Maharashtra issued a policy to permit redevelopment of cinema theatres on 10.03.1992. Respondent No. 5 applied for permission for the said project under the said policy on 19.03.1999. Permission was granted by issuance of GR on 08.07.1999. The Collector passed Order dated 15.07.1999 granting permission to Respondent No. 5 to carry out the said project.
20. The aforesaid issue was also the subject matter of PIL No. 83 of 2018, wherein, by its Order dated 22.04.2019, the Hon'ble Bombay High Court *inter alia* upheld the legality of the permission granted to Respondent No. 5 (*Ex. PP/ Pg.756*). The said order has become final in absence of a challenge. It is also pertinent to note that the said Order of the Hon'ble High Court has been suppressed in the present OA by Applicant.

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Para 21
Suppression of facts

Submissions on Limitation, Maintainability & Conduct of Applicant :

21. It is submitted that the said Project, is being undertaken with all required permissions under applicable law as is apparent from the following :

- a. 1st CC in the layout was issued on 05.12.2001 (*Ex. I/Pg.331*) based on the approved CZMP under CRZ Notification 1991. Thereafter, a work start notice was duly issued by Respondent No. 5 on 3rd & 4th July 2003 (*Ex. A/Pg. 226*) intimating to MMRDA and MCGM that the construction work had commenced on 27.06.2003.
- b. The Govt. of Maharashtra vide NOC dated 06.08.1999 (*Ex. H/Pg. 329*), granted CRZ clearance for the project and the approval of plans and Commencement Certificate granted on 05.12.2001 by MMRDA was in accordance with the CRZ clearance.
- c. GOM passed an order under Section 47 of MRTP Act on 15.01.2007, in which it is recorded that the entire project has been approved from the CRZ point of view and is excluded from the scope of the EIA notification issued by MoEF.
- d. MMRDA issued the building permission based on approved CZMP for State of Maharashtra wherein there is no mangrove buffer zone provided qua the said plot and also based on the fact that the said buildings on said plot are on the landward side of the imaginary line parallel to the HTL drawn from the existing authorised structure.
- e. On 05.03.2018 (*Ex. T/Pg. 423*), as per the request of MPCB dated 23.02.2016 (*Ex. L/Pg. 346*) for clarification regarding applicability of CRZ and EC Clearance for the said project, the Env. Dept, GOM clarified that said project was an ongoing composite project which was granted CC dated 05.12.2001 from MMRDA and CRZ Clearance dated 06.08.1999 from GOM and it was concluded that EIA Notification 1994 and amendment dated 07.07.2004 were not applicable to the said project. It was also pointed out that the area under construction was less than the initial proposed area and was an ongoing project and EIA Notification 2006 was not applicable.

22. *The OA is Barred by Limitation* : Cause of action first arose in the year 2003 when the project work started as evident from Work Start Letter of MMRDA dated 03.07.2003 (*Ex. A/Pg. 226*) which notes that project commenced on 27.06.2003. Present OA has been filed on 15.02.2024 which is beyond the limitation period prescribed as per Section 14 of NGT Act. Applicant has given no reasons for delay in filing of the said application. Applicant has stated that information/records/documents have been obtained by the Applicant under RTI Act in July 2023. This is belied by the earlier actions taken by the Applicant (which have been suppressed in the OA). Further, it is settled law that knowledge and making of RTI applications to gather information does not constitute as a valid ground for cause of action. However, even going with this contention, the OA is barred by limitation.

23. OA is rife with Material & Deliberate Suppressions :

- a. Applicant has suppressed that on 27.07.2016 (*Ex. B/Pg. 228*), he had filed a complaint with MMRDA and MCZMA regarding alleged illegal construction being carried out for the said project raising the same contentions of violation of EIA Notification, mangrove buffer and CRZ Notification as in the present OA. MCZMA had considered a similar complaint of Santosh Daundkar dated 25.07.2016 on identical issues as the Applicant's complaint. MCZMA upon consideration, decided to withdraw Stop Work Order dated 11.08.2017. MCZMA Order dated 11.01.2018 clearing the said Project and granting permission was also intimated to the Applicant (*Ex. Q/ Pg.379*). Yet the same has been deliberately suppressed.
- b. Applicant has also suppressed that he filed Criminal Complaint No. 182 of 2017 before the Metropolitan Magistrate, Bandra against IFCPL and its directors praying that FIR be registered for alleged illegal construction for the said Project in mangrove buffer zone area and for *inter alia* violation of CRZ Notification and EP Act, 1956. The Ld. Metropolitan Magistrate issued process against IFCPL in CC/182/2017 on 06.06.2019 (*Ex. C/Pg. 248*) without giving opportunity of hearing to IFCPL. The said Order was challenged by IFCPL in WP No. 1386 of 2020 (*Ex. D/Pg.249*) wherein Hon'ble Bombay High Court has issued rule and stayed the proceedings of CC/182/2017 and the same is pending before the Hon'ble Bombay High Court (*Ex. E/Pg.298*). Applicant despite being a party to these proceedings suppressed the same.

24. Applicant is not a bona fide Litigant and OA is vexatious :

- a. The Applicant has no causal connection with the said Project. The OA has been filed with oblique motives by a party who has no relation with the said plot or project.
- b. The Applicant has filed repeated complaints/applications, on the same grounds, before various forums. The said proceedings have deliberately been suppressed from this Hon'ble Tribunal showing an attempt to forum shop and to mislead.
- c. The present OA is motivated is also apparent from the fact that Contempt Petition No. 20 of 2018 in PIL/87/2006 (*Ex. S/Pg. 383*), raising the same issues, was filed by one Santosh Daundkar (represented by same Advocate as the Applicant). Mr. Daundkar also filed a Complaint dated 25.07.2016 before MCZMA on the same issues as the Applicant's Complaint. Further, a PIL No. 83 of 2018 – *Abha Singh & Santosh Daundkar v. State of Maharashtra & Ors.* was filed by the same Advocate, challenging the permissions granted for said Project. The said PIL was disposed off

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by the Hon'ble Bombay High Court, upholding the permissions granted for the said Project. However, the said facts have been deliberately suppressed to gain an illegal advantage.

- d. It is evident that certain persons have concerted with each other and have repeatedly filed applications in different forums with oblique motives.

Date: 12.09.2025



Advocates for Respondent No. 5

ANNEXURE-A
BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SITTING AT PUNE
ORIGINAL APPLICATION NO. 49 OF 2024

BETWEEN :

PRATAP LAL TELI

... APPLICANT

VERSUS

SECRETARY, ENVIRONMENT DEPARTMENT,
 GOVERNMENT OF MAHARASHTRA & ORS.

... RESPONDENTS

LIST OF DATES ON BEHALF OF RESPONDENT NO. 5

S. No.	DATE	PARTICULARS
1.	28.04.1971	R5 was granted leasehold rights qua land bearing No. CTS Nos 341(Pt.), village Bandra (East) & CTS No. 4(Pt.), Village Parighkar ("said Plot"). Lease was for a tenure of 99 years, and renewable for a further period of 99 years.
2.	23.12.1977	MCGM approved plans for a drive-in-theatre. Construction was completed and OC was granted to R5.
3.	27.09.1996	Coastal Zone Management Plan ("CZMP") was published. As per the CRZ Notification 1991 read with CZMP, the said plot, was under CRZ-II area, where development was permitted as per then prevailing DCR.
4.	09.07.1997 Ex. HH @ 576	CRZ Notification 1991 was amended by MoEF&CC delegating powers to State Government for granting CRZ Clearance for projects with investment above INR 5 crores.
5.	26.11.1998 Ex. F-colly @ 300	MCZMA was constituted by the Central Government in exercise of powers u/Section 3(1) and 3(3) of the E.P Act.
6.	14.06.1999 Ex. G @ 309	R5 made an application to the State Government, for CRZ Clearance to redevelop the Plot and proposed an integrated composite project comprising of a reduced capacity drive-in

		theatre, office buildings and a hospitality component (the "said Project").
7.	06.08.1999 Ex. H @ 329	CRZ Clearance was granted by the State of Maharashtra in accordance with CRZ Notification 1991 and CZMP.
8.	05.12.2001 Ex. I @ 331	Layout plan was approved by MCGM and Commencement Certificate was issued by MMRDA, being the Special Planning Authority for Bandra Kurla Complex.
9.	04.01.2002 Ex. F-colly @ 303	MCZMA was reconstituted and empowered to examine all projects proposed in CRZ area and give their recommendations before proposals are referred to the Central Government or agencies entrusted to clear such projects under CRZ Notification 1991.
10.	25.11.2002	Amendment of the approved layout plan was also approved by MMRDA by issuance of CC.
11.	22.04.2003 Ex. F-colly @ 306	Powers earlier delegated to State Government qua CRZ Clearance of projects with investment above INR 5 crores were revoked, by an amendment to CRZ Notification 1991.
12.	27.06.2003	Redevelopment / Construction was commenced and Work Start Notice was issued by R5 to MMRDA and MCGM.
13.	04.07.2003 Ex. A @ 226	Government of Maharashtra, in terms of directions of MoEF dated 16.04.2002, was to prepare a revised CZMP on the scale of 1:4000 as per approved Development Plan. Given the same R5, requested a clarification on whether the said plot would be affected by the aforesaid.
14.	17.10.2003 Ex. J @ 333	Urban Development Department, Government of Maharashtra clarified that there was no impediment to the redevelopment of the Project, which was in accordance with the CRZ Clearance dated 06.08.1999, as the entire proposed development on the said plot was on landward side of existing authorised structure/imaginary line.
15.	06.02.2004	R5 applied to MMRDA for amendments to the approved layout plan.

16.	14/16.12.2004	MMRDA refused to grant approval of the amendment, on account of purported deficiencies relating to road set back area, provision of recreational ground ("RG"), building projection, CRZ stipulations, EIA Clearance, traffic/transportation requirements, etc.
17.	14.06.2005	R5 filed an Appeal before the Appellate Authority, i.e., Hon'ble Chief Minister, Government of Maharashtra, in his capacity as Urban Development Minister under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act") against the Order dated 14/16.12.2004. The matter was heard on 14.06.2005.
18.	15.01.2007 Ex. K @ 335	Based on the above hearing held on 14.06.2005, the Appellate Authority passed a detailed order quashing and setting aside the MMRDA Order dated 14/16.12.2004 and granted permission to R5 to carry out the said project as per the amended plans with certain modifications. This order therefore constitutes the <u>Planning Permission</u> .
19.	24.09.2009	MPCB granted <u>Consent to Establish</u> for the Project. One of the conditions for the CTE, was that EC be obtained as per the EIA Notification and CRZ Clearance be obtained from MCZMA. <i>In response R5, by a representation, informed the MPCB of the order dated 15.01.2007 passed by the Appellate Authority which clarified that no such clearances were required.</i>
20.	23.02.2016 Ex. J @ 346	MPCB, requested the Environment Department, Govt. of Maharashtra for clarification whether R5 needs to obtain prior EC and CRZ Clearance or not.
21.	27.07.2016 Ex. B @ 228	<u>Mr. Pratap Lal Teli, the Applicant herein made a complaint to MMRDA and MCZMA regarding alleged illegal construction being carried out for the said project, i.e., on the same grounds as the present OA.</u> <u>(SUPPRESSED)</u>

22.	28/30.06.2017 Ex. M @ 347	MCZMA took cognizance of a complaint filed by one Mr. Santosh Daundkar regarding the construction for the said project. On 11.08.2017, MCZMA directed to stop work of the said project. (SUPPRESSED)
23.	10.08.2017 Ex. N @ 349	Applicant filed Criminal Complaint No. 182 of 2017 before the Hon'ble Court of MM, Bandra against R5 and its directors praying that FIR be registered against the parties for alleged illegal construction of the said project, on same grounds as the present OA. (SUPPRESSED)
24.	15/16.09.2017 Ex. P @ 373	MCZMA, after considering the submissions and after a detailed deliberation decided to withdraw the Stop Work Order dated 11.08.2017. (SUPPRESSED)
25.	11.01.2018 Ex. Q @ 379	MCZMA intimated the decision dated 15/16.09.2017 to MMRDA. A copy of the same was specifically sent to the Applicant herein. The decision dated 11.01.2018 was not challenged & has attained finality. (SUPPRESSED)
26.	16.02.2018 Ex. R @ 382	MMRDA replied to MCZMA giving its reply to the compliances sought and intimating the MCZMA that all conditions have been complied and no action is warranted on the said project.
27.	05.03.2018 Ex. T @ 423	Environment Department, Government of Maharashtra responded to the MPCB letter dated 23.02.2016 and clarified that the Project was an ongoing composite project, which was granted Commencement Certificate dated 05.12.2001 from MMRDA and CRZ Clearance dated 06.08.1999 from the State Government. It was clarified that EIA Notification 1994 and amendment thereto dated 07.07.2004 were not applicable. It was further clarified that area under construction was less than the initial proposed area and EIA Notification dated 14.09.2006 was also not applicable.
28.	27.03.2018 Ex. U @ 426	MPCB granted Consent to Operate for the Project.

29.	30.06.2018 Ex. V @ 433	The <u>Forest Conservator, Mumbai Mangrove Conservation Unit</u> , acting upon a complaint, inspected the said Plot site. Upon inspection it was found that the boundary wall at the plot exists since long time and the <u>notified mangrove area is up to 400 meters from the wall</u> . The construction was found not to be destroying the mangroves and <u>the said site was found outside the notified mangroves area</u> .
30.	06.06.2019 Ex. C @ 248	Ld. MM passed ex-parte order issuing process against R5 & its Directors in Criminal Complaint No. 182/2017 filed by the Applicant herein, for alleged violations of Section 15(5) of the NGT Act. <i>(SUPPRESSED)</i>
31.	11.03.2020 Ex. D @ 249	Writ Petition No. 1386 of 2020 under Section 482 of CrPC was filed by R5 & its Directors for quashing of the order dated 06.06.2019. The Hon'ble Bombay High Court was pleased to issue Rule and grant stay on the order dated 06.06.2019 passed in C.C. No. 182 of 2017. The said writ petition is currently pending for final hearing. <i>(SUPPRESSED)</i>
32.	04.02.2022 Ex. W @ 436 04.03.2022 Ex. X @ 442	MCZMA, based on another complaint, came to an erroneous view that the area of the said project was within 50 meters mangrove buffer zone and that prior permission of the Hon'ble High Court is required. The same was informed to R5 by letter dated 04.03.2022. The said decision and letter ignored the earlier decision of the MCZMA dated 15/16.09.2017 and the findings of the Forest Conservator, which were binding on MCZMA.
33.	25.04.2022 Ex. Y @ 444	R5 made a representation to the MCZMA, to remove the arbitrary condition of seeking prior permission from the Hon'ble High Court, which was not in line with the legal provisions and earlier decisions in the matter.
34.	May 2023	Present OA came to be filed.
35.	11.12.2023 Ex. AA @ 459	Hon'ble High Court of Bombay passed order dated 11.12.2023 in Writ Petition No 15318 of 2023 - <i>Shivtej Builders and Developers</i>

		<i>vs The Navi Mumbai Municipal Corporation & Ors.</i> – which militates against the proposition that any permission from the High Court is required. It appears that MCZMA has not challenged the said judgment dated 11.12.2023 and has accepted the same.
36.	26.06.2024 Ex. Z @ 458	R5 made another representation to the MCZMA referring to its earlier undecided representation dated 25.04.2022 and the order of the Hon'ble High Court of Bombay dated 11.12.2023 in Writ Petition No 15318 of 2023 - <i>Shivtej Builders and Developers vs The Navi Mumbai Municipal Corporation & Ors.</i> Both representations are pending.
37.	28.04.2025	R5 made another representation to the MCZMA referring to its earlier undecided representations, pursuant to the Order of the Hon'ble Supreme Court of India dated 25.02.2025 in <i>Blue Star Realtors Vs. The BEAG.</i>
38.	10.07.2025	The Hon'ble High Court of Bombay passed an Order disposing off Writ Petition (L) 20106 of 2025 filed by IFCPL and directed MCZMA to decide the representation dated 28.04.2025 filed by IFCPL and pending before MCZMA (Annexure E).
39.	01.08.2025	In compliance with Order dated 10.07.2025, MCZMA considered the representation of Respondent No. 5 in its 186 th meeting held on 01.08.2025. After deliberation, MCZMA has sought certain additional documents from Respondent No. 5 and has directed the Mangrove Cell to submit its report (Annexure F). Respondent No. 5 is in the process of collating the requisite documents for further consideration of MCZMA,

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ANNEXURE-B

SLP(Civil) No. 11035/2019 Etc.

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

CIVIL APPEAL NO. 3225 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 11035 OF 2019]

M/S BLUE STAR REALTORS PVT. LTD. APPELLANT(S)

VERSUS

**THE BOMBAY ENVIRONMENTAL ACTION GROUP RESPONDENT(S)
AND OTHERS**

WITH

CIVIL APPEAL NO. 3226 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 11893 OF 2019]

CIVIL APPEAL NO. 3227 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15704 OF 2019]

CIVIL APPEAL NO. 3228 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15705 OF 2019]

CIVIL APPEAL NO. 3229 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15706 OF 2019]

CIVIL APPEAL NO. 3230 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15707 OF 2019]

CIVIL APPEAL NO. 3231 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15710 OF 2019]

CIVIL APPEAL NO. 3232 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15711 OF 2019]

CIVIL APPEAL NO. 3233 OF 2025

[@ SPECIAL LEAVE PETITION (CIVIL) NO. 15703 OF 2019]

O R D E R

Signature Not Verified

Leave granted.

Digitally signed by
POOJA SHARMA
Date: 2024.03.06
14:26:52 IST
Reason: 2.

2. These appeals partly impugn the judgment dated 17.09.2018,

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passed in Public Interest Litigation No. 87 of 2006, titled "*Bombay Environmental Action Group and another v. The State of Maharashtra and others*" and connected matters. The appellants are (i) Malvani Prabodhan Sahakari Grihanirman Sanstha Maryadit¹; (ii) Malvani Anand Deep Sahakari Grihanirman Sanstha Maryadit²; (iii) Malvani Matoshri Sahakari Grihanirman Sanstha Maryadit³; (iv) Malvani Sagar Sahakari Grihanirman Sabha Maryadit⁴; (v) Malvani Tiranga Sahakari Grihanirman Sanstha (Niyojit)⁵; (vi) Malvani Sahara Sahakari Grihanirman Sanstha (Niyojit)⁶; (vii) Malvani Laxminarayan Sahakari Grihanirman Sanstha (Maryadit)⁷; (viii) Dinshow Trapinex Builders Pvt. Ltd.⁸; and (ix) Blue Star Realtors Pvt. Ltd.⁹

3. The appellants had earlier preferred before the High Court of Bombay either writ petitions, i.e., Writ Petition Nos. 176/2015, 180/2015, 187/2015, 188/2015, 190/2015, 249/2015, 251/2015, or Chamber Summons Nos. 169/2015 & 172/2007, which were disposed of, *vide* judgment dated 29.07.2015.

4. Dealing with the issues raised, the said judgment, *inter alia*, held that mangroves were a lifeline and no breach of

- 1 Petitioner in W.P. No. 176/2015
- 2 Petitioner in W.P. No. 180/2015
- 3 Petitioner in W.P. No. 187/2015
- 4 Petitioner in W.P. No. 188/2015
- 5 Petitioner in W.P. No. 190/2015
- 6 Petitioner in W.P. No. 249/2015
- 7 Petitioner in W.P. No. 251/2015
- 8 CHSW No. 169/2015
- 9 CHSW No. 172/2007

the directions of the Maharashtra Coastal Zone Management Authority¹⁰ could be tolerated. The layouts, forming part of the petitions and other proceedings, were to be taken into consideration before any directions were issued for regularization. In case any plot owner or developer violated the conditions, the plot in question had to be restored to the original state after demolition of the existing structures, at the risk and cost of the developer and the society. Accordingly, Notice of Motion No. 234/2015 taken out by Maharashtra Housing and Area Development Board was allowed and it was permitted to exclude the plots in the layouts for which environmental clearance was granted by the Ministry of Environment and Forests on 10.02.2003 and 10.11.2005 from the operation of the 50 meters buffer zone requirement, but subject to the observations therein.

5. As there was no further restriction in the Coastal Regulation Zone¹¹ Notification dated 19.02.1991, the High Court of Bombay introduced additional safeguards for protection of mangroves, by barring construction activity in the prohibited buffer zone, by interim order dated 06.10.2005. The additional safeguards in the form of directions given in the interim order dated 06.10.2005, were later on incorporated in the Notification dated 06.01.2011. However, the interim order dated 06.10.2005, and the

10 For short, "MCZMA."

11 For short, "CRZ."

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Notification dated 06.01.2011, exempted a plot of land even if it fell in the 50 meters buffer zone if it was already a part of an approved layout plan with infrastructural facilities within a municipal area or in an existing legally designated urban area as on 06.01.2011. We need not pronounce on the said cutoff date for the purpose of the present order and judgment as an issue may arise whether the relevant cutoff date should have been the date of the interim order, which is 06.10.2005.

6. In order to carry out the said exercise, i.e., to identify the plots outside the aforesaid approved Ministry of Environment and Forests layouts, the parties concerned were required to move the competent regulatory authority, i.e., the MCZMA or Ministry of Environment and Forests, and not the High Court of Bombay. It was also recorded that when any CRZ clearance was sought, the MCZMA had to satisfy itself that the plot in question was beyond the existing concrete/tar roads towards the landward side and was a part of a developed area; a concept which was explained in the judgment.

7. Our attention is also drawn to the Notification dated 19.01.2000, issued by the Ministry of Environment and Forests, Government of India, on the Coastal Zone Management Plan of Maharashtra and categorization based on High Tide Level and Low Tide Level. Paragraphs 6 and 7 of the said Notification, dealing with the buffer zone around mangroves,

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read as under:

"(6) Buffer around mangroves:

The 50 meter buffer zone around mangroves of area 1000 sq. meters and above, will not be required on the landward side provided the road abutting such mangroves was constructed prior to February, 1991.

(7) Development of MHADA layout:

Status quo shall be maintained in respect of MHADA Layout at Charkop."

8. As noticed above, the aforesaid Notification was issued prior to the interim order passed by the High Court of Bombay on 06.10.2005.

9. The order dated 29.07.2015 was challenged before this Court in a special leave petition, and the same was dismissed.

10. The impugned judgment dated 17.09.2018, in paragraph '74' refers to the Chamber Summons, which became the subject matter of the judgment dated 29.07.2015. Thereupon, it states that, while passing the judgment dated 29.07.2015, the attention of the Court was not drawn to condition no. xiii imposed in the letter/order dated 27.09.1996, of the Central Government, by which, the Coastal Zone Management Plan for the State of Maharashtra was sanctioned. It was the condition of the said plan that where mangroves with an area of 1000 sq. meters or more existed, the buffer zone of 50 meters would form part of CRZ I. However, it is an admitted fact that the requirement laid down in the Coastal Zone Management

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Plan of a 50 meter buffer zone around mangroves of an area of 1000 sq. meters and above, was modified by the Notification dated 19.01.2000, upon satisfaction of the condition stated therein that the buffer zone will not be required on the landward side provided the road abutting such mangroves was constructed prior to February, 1991.

11. In other words, where the road on the landward side abutting the mangroves was constructed prior to February, 1991, the buffer zone of 50 meters was not required. The impugned judgment dated 17.09.2018, disposed of the PIL with several directions, including stoppage of all constructions taking place within 50 meters on all sides of mangroves, regardless of the ownership of the land having such mangroves and the area of the land.

12. In view of the aforesaid position, we may only clarify that the impugned judgment dated 17.09.2018, shall not be read as having modified or altered the conditions which were imposed, *vide* judgment dated 29.07.2015, in the writ petitions/chamber summons filed by the appellants, provided all the applicable rules and regulations, including the conditions mentioned in the applicable law and in terms of the judgment dated 29.07.2015, are duly met.

13. We further clarify that the observations and findings recorded in above paragraph only pertain to the nine plots, which were the subject matter of the judgment dated

29.07.2015. The said judgment specifically records the details of the nine plots in question and also notes that the said plots were allotted during the period 1987 to 1994 and the infrastructure in the form of laying of roads, etc., had been completed long ago. In other words, as the development has already been completed, it would be impossible to create a buffer zone of 50 meters because of the construction and other development activities which happened long before the interim order dated 06.10.2005. It goes without saying that in case it is possible to create a buffer zone of 50 meters, that aspect must be kept in mind by the authorities concerned while granting approvals.

14. Recording the aforesaid, the appeals are disposed of.

15. Pending application(s), if any, shall stand disposed of.

.....CJI.
(SANJIV KHANNA)

.....J.
(SANJAY KUMAR)

NEW DELHI
FEBRUARY 25, 2025
PS

ITEM NO.12

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. 11035/2019

[Arising out of impugned final judgment and order dated 17-09-2018 in PIL No. 87/2006 passed by the High Court of Judicature at Bombay]

M/S BLUE STAR REALTORS PVT. LTD.

PETITIONER

VERSUS

THE BOMBAY ENVIRONMENTAL ACTION GROUP & ORS.

RESPONDENTS

(IA No. 66439/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 11893/2019 (IX)

(IA No. 66443/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 11509/2019 (IX)

(IA No. 53516/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 66674/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 15704/2019 (IX)

(IA No. 75217/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 15705/2019 (IX)

(IA No. 74734/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 15706/2019 (IX)

(IA No. 74675/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 15707/2019 (IX)

(IA No. 73675/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 15710/2019 (IX)

(IA No. 74719/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT)

SLP(C) No. 15711/2019 (IX)

(IA No. 74768/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 15703/2019 (IX)

(IA No. 74823/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

DIARY NO. 13791/2020 (IX)

(FOR ADMISSION and I.R. and IA No.97479/2020-CONDONATION OF DELAY IN FILING and IA No.97480/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.97481/2020-EXEMPTION FROM FILING AFFIDAVIT)

DIARY NO. 15246/2021 (IX)

(IA No.87405/2021-CONDONATION OF DELAY IN FILING and IA No.87406/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.87408/2021-EXEMPTION FROM FILING O.T. and IA No.87403/2021-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 25-02-2025 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) :

Mr. Gaurav Agrawal, Sr. Adv. (Not present)
Mr. Abhay Anil Anturkar, Adv.
Mr. Salik Khan, Adv.
Mr. Dhruv Tank, Adv.
Mr. Aniruddha Awalgaonkar, Adv.
Mr. Bhagwant Deshpande, Adv.
Ms. Subhi Pastor, Adv.
M/S. Dr. R.R. Deshpande And Associates, AOR

Mr. Aaditya Aniruddha Pande, AOR

Mr. Chirag M. Shroff, AOR
Mrs. Mahima C Shroff, Adv.
Mr. Anand Thumbayil, Adv.

Mr. C.U. Singh, Sr. Adv.
Mr. Anirudha Joshi, Sr. Adv.
Mr. Shashibhushan P. Adgaonkar, AOR
Mr. Anoop Raj, Adv.

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Mr. Vinay Navare, Sr. Adv.
 Mr. Samir Arunkumar Vaidya, Adv.
 Mr. Anand Dilip Landge, AOR
 Mrs. Sangeeta Nenwani, Adv.
 Ms. Revati P. Kharde, Adv.
 Mr. Sumit Kumar, Adv.
 Mr. Rahul Prakash Pathak, Adv.

For Respondent(s) :

Mr. Rohan Thawani, Adv.
 Ms. Sheetal Shah, Adv.
 Ms. Pooja Dhar, AOR
 Mr. Pratul Pratap Singh, Adv.

Ms. Madhusmita Bora, AOR

Mr. Sachin Patil, AOR

Ms. Aishwarya Bhati, A.S.G.
 Mr. Gurmeet Singh Makker, AOR
 Ms. Chitragda Rashtrawara, Adv.
 Ms. Ruchi Kohli, Adv.
 Ms. Swarupma Chaturvedi, Adv.
 Mr. Madhav Sinhal, Adv.
 Mr. Rohan Gupta, Adv.

Mr. Mukesh Verma, Adv.
 Mr. Pankaj Kumar Singh, Adv.
 Mrs. Vatsala Tripathi, Adv.
 Mr. Pawan Kumar Shukla, Adv.
 Mr. Krishna Prakash Dubey, Adv.
 Mr. Yash Pal Dhingra, AOR

Mr. Ashish Wad, Adv.
 Mr. Manoj Wad, Adv.
 Ms. Swati Arya, Adv.
 Ms. Akriti Arya, Adv.
 M/S. J S Wad And Co, AOR

Mr. Sachin Patil, Adv.
 Mr. Siddharth Dharmadhikari, Adv.
 Mr. Aaditya Aniruddha Pande, AOR
 Mr. Geo Joseph, Adv.
 Mr. Durgesh Gupta, Adv.
 Mr. Risvi Muhammed, Adv.

UPON hearing the counsel, the Court made the following

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O R D E R

SLP(Civil) Nos. 11035/2019, 11893/2019, 15704/2019, 15705/2019, 15706/2019, 15707/2019, 15710/2019, 15711/2019, & 15703/2019:

Leave granted.

These appeals are disposed of in terms of the signed order, which is placed on file.

SLP(Civil) Diary No. 13791/2020:

There is a huge delay of 569 days in the filing of the present petition. We are not satisfied with the reasons given for explaining the delay.

Even otherwise, on merits also, we are not inclined to interfere with the impugned judgment and, hence, the special leave petition is dismissed on the ground of delay as well as on merits. Recording the aforesaid, the application seeking condonation of delay is rejected.

However, we may clarify that the issue of setting up of jetties has not been examined by us as it is the subject matter of another special leave petition [SLP(Civil) Diary No. 29692/2022].

SLP(Civil) Diary No. 15246/2021:

Permission to file the special leave petition is

granted.

There is a huge delay of 935 days in the filing of this petition. We are not satisfied with the reasons given for explaining the delay.

Even otherwise, on merits also, we are not inclined to interfere with the impugned judgment and, hence, the special leave petition is dismissed on the ground of delay as well as on merits.

SLP(Civil) No. 11509/2019:

We are not inclined to interfere with the impugned judgment and, hence, the special leave petition is dismissed.

Pending application(s), if any, shall stand disposed of.

However, we clarify that the dismissal of this special leave petition will have no bearing on the order passed in the Civil Appeal @ SLP(Civil) No. 11035/2019 and other connected appeals.

(POOJA SHARMA)
COURT MASTER (SH)

(R.S. NARAYANAN)
ASSISTANT REGISTRAR



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ANNEXURE-C

Varsha

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 CIVIL APPELLATE JURISDICTION
 WRIT PETITION NO. 15318 OF 2023

Shivtej Builders and Developers ...Petitioner
Versus
 The Navi Mumbai Municipal Corporation & Ors ...Respondents

Mr Suresh Sabrad, *i/b JS Legal, for the Petitioner.*
 Mr Tejesh Dande, *for Respondent No.1-NMMC.*
 Mr YD Patil, *AGP for the Respondent-State.*

CORAM G.S. Patel &
 Kamal Khata, JJ.
 DATED: 11th December 2023

PC:-

1. For some reason that we cannot understand, the Maharashtra Coastal Zone Management Authority ("MCZMA") insisted on 10th August 2023 that the Navi Mumbai Municipal Corporation ("NMMC") had to "ensure" that the Petitioner "obtained permission" from this High Court before it granted an Occupation Certificate to the Petitioner.

2. At least as currently advised, this court is not bound by such directions of the MCZMA. That would require a substantial amendment to the Constitution of India. Nobody has proposed it yet.

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3. We direct the NMMC to take up and process the Petitioner's application for an Occupation Certificate in accordance with law, without any regard whatever to Item 2 of the MCZMA order of 10th August 2023 at page 46. We clarify that it is not for the MCZMA to direct that this High Court's permission should or should not be obtained.
4. Mr Dande, Learned Counsel for Respondent No 1, states that the application will be processed expeditiously. We request that this be done in any event within eight to twelve weeks from today.
5. The Petition is disposed of in these terms.

(Kamal Khata, J)

(G. S. Patel, J)

ANNEXURE-D



Shabnoor

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

WRIT PETITION NO.363 OF 2020

Haroon Ebrahim Patel ... Petitioner
V/s.
 The State of Maharashtra and Ors. ... Respondents

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Mr. Rajesh P. Khobragade a/w Mr. Rahul S. Yadav for
 Petitioner.

Mr. Milind V. More, Addl. G. P. a/w Mr. Himanshu Takke,
 AGP for State – Respondent Nos.1 and 2.

Mr. Saket Mone a/w Ms. Anchita Nair i/by Mr. Aniket
 Deshmukh for Respondent No.3.

Ms. Jaya Bagwe for Respondent No.4 – MPCB.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
 AMIT BORKAR, J.**

DATED : AUGUST 6, 2024

ORAL ORDER: (Per Amit Borkar, J.)

1. Through this petition filed under Article 226 of the
 Constitution of India, the petitioner challenges the order dated
 30th November 2018, issued by Respondent No. 2, which held
 that the EIA Notifications dated 7th July 2004 and 14th
 September 2006 do not apply to the project undertaken by
 Respondent No. 3.

2. The facts and circumstances giving rise to the present
 petition are as follows:

Respondent No. 3 held an undivided proprietary interest in the property situated at CTS Nos. 14, 166A, 167A, 167A/1 to 14, 171 of Village Majas, off Jogeshwari-Vikroli Link Road, Mumbai, where, according to the petitioner, a construction project covering a total area of 1,77,176.40 square meters was being carried out. Based on a site inspection report dated 2nd July 2005, Respondent No. 4 issued an order on 18th March 2006, determining that the project initiated by Respondent No. 3 did not require compliance with the provisions of the EIA Notification, 1994, as amended on 7th July 2004. Consequently, on 11th December 2008, the petitioner lodged a complaint with the Ministry of Environment and Forests, seeking the issuance of directions under Section 5 of the Environment Protection Act, 1986, alleging that the project commenced by Respondent No. 3 was in violation of the EIA Notification, 1994, as amended on 7th July 2004.

3. The Director of the Ministry of Environment and Forests, through a letter dated 16th November 2010, directed the Chairperson of the Maharashtra State Coastal Zone Management Authority and the Member Secretary of the State Level Impact Assessment Authority to examine the issues raised by the petitioner in his complaint dated 1st November

2010. Consequently, on 19th November 2010, Respondent No. 1 issued a show-cause notice to Respondent No. 3, inquiring why the construction activities initiated by Respondent No. 3 should not be halted immediately for being in violation of the EIA Notification, 2006.

4. Since no further action was taken by Respondent No. 1 in relation to the show-cause notice dated 19th November 2010, the petitioner filed Writ Petition No. 1921 of 2018, seeking directions against Respondent No. 1 to adjudicate upon the show-cause notice dated 19th November 2010. This Court, by an order dated 31st August 2018, directed Respondent No. 1 to decide upon the show-cause notice. Consequently, on 12th September 2018, the petitioner filed a representation with Respondent No. 1, referencing the order of this Court in Writ Petition No. 1921 of 2018. Respondent No. 3, on 27th September 2018, submitted a reply to the representation and the show-cause notice. Subsequently, Respondent No. 2, by the impugned order dated 17th November 2018, after providing the petitioner with an opportunity for a hearing, held that the impugned project of Respondent No. 3 did not require Environmental Clearance under the provisions of the EIA Notification, 2006, as the

construction work of Respondent No. 3 had commenced in the year 2003 and the plinth level work was completed by 7th July 2004. The petitioner has, therefore, filed the present petition challenging the order dated 17th November 2018, contesting the decision that the EIA Notifications dated 7th July 2004 and 14th September 2006 are inapplicable to the project of Respondent No. 3.

5. The Advocate for the petitioner submitted that the evidence on record indicates that only one building within the entire project was completed up to the plinth level as of 7th July 2004, and unless all buildings in the project were completed up to the plinth level on the date of the amendment to the EIA Notification coming into force, Respondent No. 3 was required to obtain Environmental Clearance as per the EIA Notification, 1994.

6. Conversely, the learned Advocate for Respondent No. 3, relying on the amended clause and the explanation thereof, submitted that the Notification dated 7th July 2004 shall apply only to such new projects where construction work had not reached the plinth level. He argued that the construction of a building up to the plinth level is sufficient to invoke the

explanation to clause (g) of paragraph 3 of the Notification dated 27th January 1994, as amended by the Notification dated 7th July 2004. He further submitted that the evidence on record, including the Municipal Corporation report and inspection reports, indicates that the construction of Building No. 2 was completed up to the plinth level by 5th March 2003, thereby rendering the amended Notification inapplicable to the project of Respondent No. 3.

7. Having heard the learned counsel for the parties, the issue that arises for consideration in the instant case is whether the amended Notification dated 7th July 2004 is applicable to the project in question, which would require Environmental Clearance as per the original Notification dated 27th January 1994. For the purpose of adjudicating the issue involved, it is necessary to set out the relevant provisions of the Notification dated 27th January 1994, as amended by the Notifications dated 7th July 2004 and 14th September 2006, which are extracted as follows:

"2. Requirements and Procedure for seeking environmental clearance of projects:

I(a) Any person who desires to undertake any new project in any part of India or the expansion or modernization of any existing industry or project listed in the Schedule-I shall

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submit an application to the Secretary, Ministry of Environment and Forests, New Delhi.

3. Nothing contained in this Notification shall apply to:

.....

(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1000 (one thousand) persons or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.

Explanation:-

(i) New construction projects which were undertaken without obtaining the clearance required under this notification and where construction work has not come up to the plinth level shall require clearance under this notification with effect from the 7th day of July, 2004."

8. From the undisputed facts on record, following factual scenario emerges :

(i) the construction of project in question commenced well before 5th May 2003;

(ii) prior to Notification dated 7th July 2004, the project in question did not require Environmental Clearance as per Notification dated 27th January 1994;

(iii) plinth of building No.2 was constructed before MoEF Notification dated 7th July 2004.

9. Upon a perusal of the Notification dated 27th January 1994, as amended by the Notifications dated 7th July 2004 and 14th September 2006, it is evident that clause (2) of the Notification dated 27th January 1994 requires Environmental Clearance to be obtained by any person who desires to undertake any new project in any part of India or the expansion or modernization of any existing industry or project listed in Schedule-I MoEF. The Notification dated 7th July 2004 introduces clause (3)(g), which requires environmental clearance for any construction project falling under entry 31 of Schedule-I, including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals, and office complexes for 1000 persons or below or with an investment of Rs.50 crores. The explanation to clause (3)(i) states that the clearance as required by the Notification dated 27th January 1994, as amended by the Notification dated 7th July 2004, shall be necessary for new construction projects that were undertaken without obtaining the Environmental Clearance required under the said Notification and where construction work has not progressed up to the plinth level. In other words, the clearance required under the Notification shall not be necessary for such projects where

construction has reached the plinth level. It is undisputed that the construction up to the plinth level of Building No. 2 was already completed before the issuance of the Notification dated 7th July 2004. Therefore, both conditions outlined in the explanation to clause (3) of the Notification dated 27th January 1994, as amended by the Notification dated 7th July 2004, are met, as it was a new construction project without the required clearance under the Notification, and the construction work had not progressed up to the plinth level.

10. The general principle regarding the applicability of statutes governing building permissions is that the law prevailing on the date of the grant of permission must be applied by the planning authority, as new liabilities imposed after the grant of valid development permission may infringe upon the vested right to develop immovable property, as conferred under the provisions of the Maharashtra Regional and Town Planning Act, 1966. However, this unqualified interpretation may not be strictly applicable to matters of environmental law. Nonetheless, by analogy to the aforementioned general principle, the explanation to clause (3)(g) of the Notification dated 27th January 1994 must be construed to imply that construction up to the plinth level of a

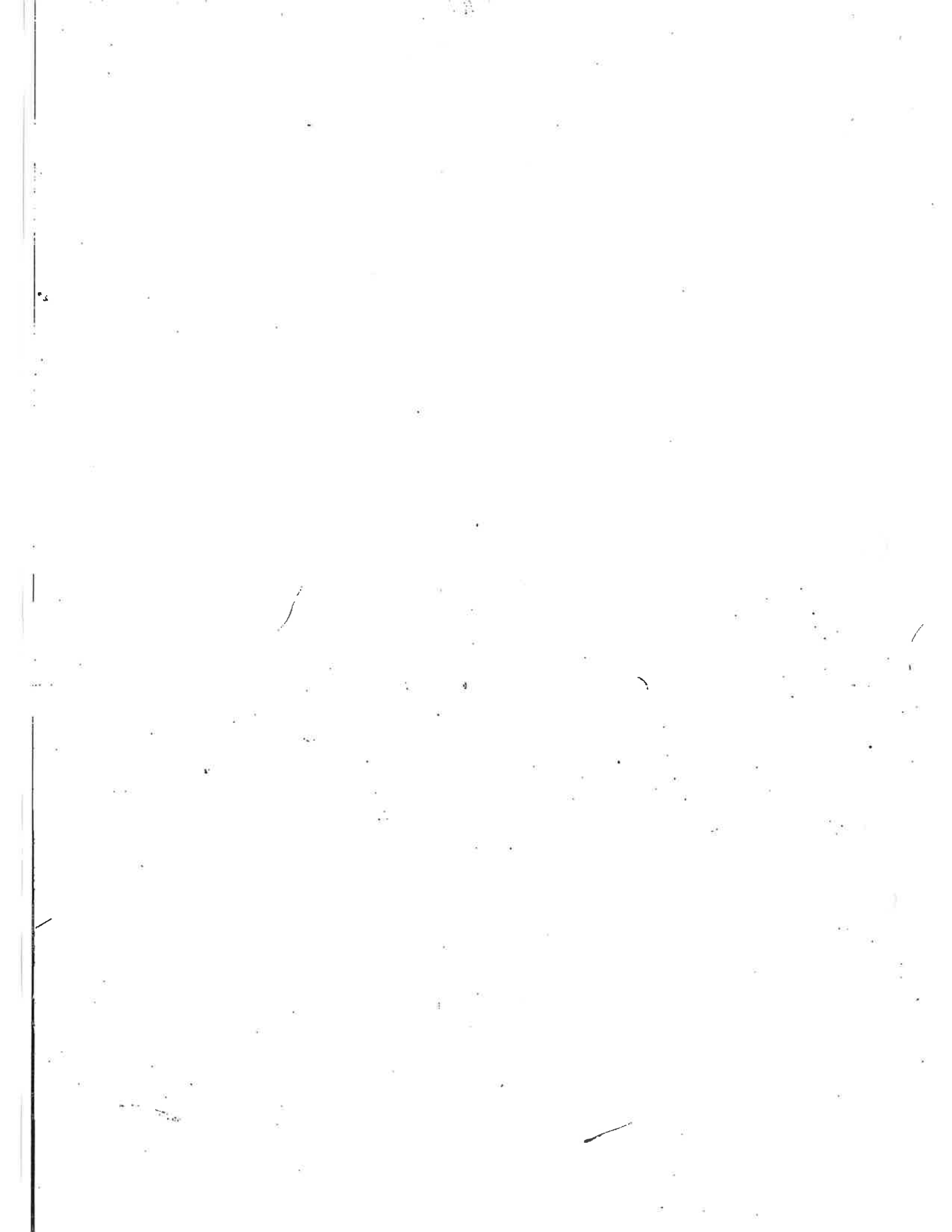
building within the project constitutes a new project for the purposes of clause (3)(g) of the said Notification. Accordingly, environmental clearance for the project in question shall not be required.

11. For the reasons stated above, we do not find any legal infirmity in the impugned order warranting interference by this Court. Accordingly, the writ petition is dismissed. No order as to costs.

12. Pending interim application(s), if any, stand disposed of.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)



ANNEXURE-E

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

WRIT PETITION (L) NO.20106 OF 2025

The Indian Film Combine Private LimitedPetitioner
versus
The Director,
Environment and Member Secretary & Ors.Respondents

Mr. Vikram Nankani, Senior Advocate and Mr. Prakash Shah,
Senior Advocate with Mr. Yash Prakash i/b M/s. PDS Legal for the
Petitioner.

Ms. Jaya Bagwe, for Respondent Nos.1 and 2/MCZMA.

Mrs. Vaishali M. Choudhari, Additional GP for Respondent
No.3/State.

CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.

DATE : 10 JULY 2025.

P.C.:

1. In this Writ Petition, the Petitioner *interalia* prays for direction to the Respondent to decide the representation dated 28 April 2025 submitted by it seeking permission to complete the project.

2. We have heard learned counsel for the parties at length. After hearing the learned counsel for the parties and taking into account the fact that the representation dated 28 April 2025 submitted by the

Petitioner is pending for consideration, we direct that the representation be decided by passing a speaking order thereon.

3. Needless to state that the Respondent shall give an opportunity of hearing in person or to the representative of the Petitioner before deciding the representation. It is made clear that this Court has not expressed any opinion on merits. Accordingly, Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)

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Minutes of the 186th Meeting of Maharashtra Coastal Zone Management Authority held on 01st August, 2025

Item No.35: Representation regarding project located at land bearing S. No. 341 (pt), CTS No. 629 (pt) of village Bandra and S. No. 4(pt), CTS No. 8 (pt) of village Parighkhar in Bandra - Kurla Complex, Mumbai by The Indian Film Combine Private Limited. (Hon'ble High Court order dated 10th July, 2025 in Hon. High Court matter WP No. 20106 of 2025)

INTRODUCTION:

The Authority noted that the Hon'ble High Court has passed an order dated 10th July, 2025 passed in WP No. 20106 of 2025 pertaining to representation dated 28th April, 2025 project located at land bearing S. No. 341 (pt), CTS No. 629 (pt) of village Bandra and S. No. 4(pt), CTS No. 8 (pt) of village Parighkhar in Bandra - Kurla Complex, Mumbai.

As per the above said order dated 10th July, 2025 of the Hon'ble High Court, hearing in person or to the representatives of the Petitioner, The Indian Film Combine Private Limited (IFC) shall be given before deciding the representation dated 28th April, 2025 of the Petitioner.

Considering the above said Hon'ble High Court order, representatives of the petitioner were called for the hearing before the Authority.

DELIBERATIONS:

Dr. Punit Gupta, Director, Indian Film Combine Pvt Ltd along with representatives were present before the Authority

The Authority noted that the Indian Film Combine Pvt Ltd submitted its representation dated 28th April, 2025 pertains to decision stipulated in letter dated 4th February, 2022 of the MCZMA - "In the light of above, after detailed discussion and deliberation, the Authority decided that the PP needs to take prior High court permission, since the area is within 50 m mangrove buffer zone area, as per the report of the mangrove Cell"

The Petitioner vide the said representation has stated that the said decision of obtaining the High Court permission is unsustainable and liable to be recalled. Petitioner has requested to withdraw the letter dated 4th February, 2022 and permit to continue the remaining works of the project.

*Minutes of the 186th Meeting of Maharashtra Coastal Zone Management
Authority held on 01st August, 2025*

The Authority heard the representatives and after deliberation came to conclusion that certain more details / information would be required from the Petitioner for deciding the matter. Further a report from the Mangrove Cell will also be required.

DECISION:

In view of above, after deliberation, the Authority decided that petitioner need to submit the following information:

1. All permissions and approvals issued by the competent Authorities for the projec
2. CRZ map in 1:4000 scale indicating project layout prepared by MoEF&CC authorized agency as per CRZ Notification, 1991, 2011 and 2019.
3. Construction status with google timeline imageries indicating site under reference along with approval letters from the competent Authority.

The Authority further decided that the Mangrove Cell need to provide their report in the matter with respect to applicability & status of 50 m mangrove buffer zone, in view of the representation submitted by the applicant.

On receipt of the said information, the petitioner shall make a detailed presentation before the Authority for further appropriate decision in the matter.