

Item No.5

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Execution Application No. 02/2023(WZ)

In

Original Application No. 05/2021(WZ)

Santosh Patil & Anr.

.....Applicant(s)

Versus

Member Secretary, SEIAA & Ors.

....Respondent(s)

Date of hearing: 20.07.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Aditya Pratap, Advocate

Respondent(s) : Mr. Aniruddha S. Kulkarni, Advocate for R-1/SEIAA &
R-3/MPCB
Mr. Girish Utangale, Advocate for R-2/SRA
Shri Pinaki Misra, Senior Advocate for R-4
Shri T. N. Subramanian, Senior Advocate for R-5

ORDER

1. From the side of applicants, learned Counsel Mr. Aditya Pratap has appeared.

2. From the side of respondent No. 2/SRA, learned Counsel Mr. Girish Utangale has appeared, who has filed reply affidavit dated 18.04.2023 and additional reply affidavit dated 21.04.2023. In the reply affidavit dated 18.04.2023, it is submitted that a meeting of the Joint Committee was held on 15.03.2022, in which the project proponent was asked as to how and when it will comply with the issue of parking to Rahab Building in compliance with the EC conditions and was directed to submit an action plan. In compliance to the same, an elaborate action

plan was given by Project Proponent in respect of construction of 502 numbers of parking for rehab and re-development buildings in three parking towers. The Planning Authority has duly sanctioned the plans for three car parking towers 1, 2 and 3 for the use of rehab and re-development occupant exclusively. The PP was restrained from dealing with 2 flats no. 3401 and 3601 of Tower-A till the said three parking towers were constructed by the Project Proponent. The SRA shall have lien on the said two flats. The said plan submitted by the PP is also duly accepted and approved by the MPCB vide letter dated 03.06.2022. The PP has given a schedule of completion for two parking towers, comprising of 330 car parking spaces, which shall be constructed before occupation of the Rehab building Nos. 15 & 16 or within 3 years, whichever is earlier. The third parking tower comprising of 172 car parking spaces shall be constructed by the PP before occupation of the Rehab tenement building in the amalgamated plots or within two years whichever is earlier. The Joint Committee has duly accepted the said action Plan. The PP had obtained EC dated 06.03.2012, where-in there was no condition laid down by Respondent No.1/SEIAA about providing parkings to the Rehab Buildings. The PP thereafter obtained EC dated 28.01.2016, where-in for the first time, the condition was laid by Respondent No.1 to provide 500 numbers of parking for the Rehab Buildings. The PP had proposed 14 numbers of Rehab Building at the time of obtaining EC dated 06.03.2012 and subsequently, the proposal was extended to 25 numbers of Rehab Building. The EC dated 28.01.2016 was obtained when six Rehab buildings were completed with the OC and were thus handed over to the eligible slum dwellers. Therefore, the order dated 02.02.2022 (execution of which is prayed for) has been complied with.

3. The same respondent has also filed additional affidavit dated 21.04.2023, where-in it is submitted that the plot of land, upon which the parking building is to be constructed, is still occupied by 539 slum dwellers, who are being shifted and thereafter, demolition of the said structure would commence. The Project Proponent has also submitted that there is existing mill nalla passing through the land and that necessary steps are being taken with the permission of MCGM to divert the same on proposed 22.80 mtrs. wide road. The PP has assured that the work of providing with 502 parking for Rehab building would be completed as per the Bar Chart. The answering respondent has proposed to have a meeting in the month of May under the chairmanship of Chief Executive Officer to assess the progress made by the Project Proponent. But the learned Counsel for the respondent No. 2 apprised us that this meeting could not be held and would be held very soon.

4. From the side of respondent No. 4/Project Proponent, an affidavit dated 19.07.2023 has been filed, where-in our attention is drawn to para no. 7, in which it is stated that the answering respondent has identified land portions where 502 car parking spaces are being provided and a proposal along-with timelines was submitted within which such car parking spaces shall be provided. The sanction has been obtained for Parking Towers 1, 2 and 3 for the purposes of those 502 car parking spaces. The SRA has sanctioned the plan.

5. It is also submitted in this affidavit by the respondent No. 4 that a timeline has also been given for the said purpose, which finds mention in the Joint Committee Report as well, which is annexed in this affidavit at page nos. 287 of the paper book, which is as follows:-

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Tower No.	Comprising parking levels	Height of tower (m)	Nos. of car parking	Schedule of completion
1	G +30	70	240	Before occupation of the rehab building nos. 15 or 16 or within three years whichever is earlier.
2.	G +15	38.30	90	Before occupation of the rehab building nos.15 or 16 or within three years whichever is earlier
3.	G +22 (pt)	52.20	172	Before occupation of the rehab tenement building in the amalgamated plot or within two years whichever is earlier.

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6. From the side of respondent No.5/Mssrs. Oberoi Realty Ltd., learned Senior Counsel Shri T. N. Subramanian has appeared, who has filed reply affidavit dated 19.07.2023, where-in it is submitted that the slum rehabilitation scheme is being implemented on the subject property by the respondent No. 4 and that the answering respondent has nothing to do with this scheme, hence it is a redundant party.

7. From the side of applicants, it is prayed by the learned Counsel that he may be allowed time to rebut the reply affidavits filed by the respondent Nos. 4 & 5 by filing the rejoinder affidavit, for which we allow two weeks’ time to file the same. He also apprised us that he was not served a copy of the Joint Committee Report. We find that this report was filed long back, how he failed to obtain a copy of this, is not understandable. Later on, the learned Counsel for the applicants has admitted that now he has received a copy of that Joint Committee Report. Therefore if any objection, he wants to file against the said report, the same may be filed within a period of two weeks.

8. The learned Counsel for the applicants also prays that a direction be issued to the Project Proponent to provide a copy of the plan

sanctioned for construction of 502 numbers of car parking, which is rebutted by the learned Senior Counsel for the respondent No. 4 by saying that he can obtain a copy of the same under RTI. We direct that the plan, which is finalized for construction of the said 502 numbers of car parking, may be provided to this Tribunal before the next date and a copy of the same shall also be served upon the learned Counsel for the applicants.

Put up this matter for final hearing on 21.09.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 20, 2023
Execution Application No. 02/2023(WZ) In
Original Application No. 05/2021(WZ)
P.Kr