

Item No.4

(Pune Bench)

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

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.104 OF 2023 (WZ)

Charan Bhatt

.... Applicant

Versus

Environment & Climate Change Department & Ors.

.... Respondents

Date of hearing : 11.10.2023

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

Applicant : Applicant-in-person present through VC

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1 and R-14
Mr. Shivshankar Swaminathan, Advocate for
R-3, R-4 and R-6

ORDER

1. In compliance with our previous order, the applicant, who has appeared in person, has, instead of moving an application, submitted an affidavit dated 30.09.2023, stating therein that he has incorporated the amendment in the array of parties at serial No. 8 by deleting Ms. Mona Atul Petel M/s Nirmal Developers as respondent No.8 and in place of that, mentioning only the name of Mona Atul Patel as respondent No.8. He has also, along with that affidavit, filed the amended memo of parties. We direct the Registry to place this amended memo of parties at the top of the Original Application so that this Tribunal would not face any confusion in the names of the parties.

2. Today, from the side of respondent No.3 – Commissioner of Vasai Virar Municipal Corporation, respondent No.4 – Y. Shiva Reddy, Deputy

Director of Town Planning Department and respondent No.6 Mitali Dhangar, Engineer of Vasai Virar Municipal Corporation, learned counsel Mr. Shivshankar Swaminathan has appeared and seeks four weeks' time to file the reply-affidavit. The same is allowed.

3. From the side of respondent No.1 – Environment and Climate Change Department and respondent No.14 – CPCB, learned counsel Mr. Aniruddha Kulkarni has appeared and seeks four weeks' time to file the reply. The same is allowed.

4. As per the report of the Registry dated 10.10.2023, based on the service affidavit filed by the applicant, service is held to be sufficient on all the respondents because the Registry has submitted this report on the basis of track report, which is not annexed, but it has been verified Online.

5. From the side of remaining respondents, no-one has appeared today. Therefore, the proceedings of present Original Application against them shall go ahead *exparte*.

6. We also find that the applicant has filed another affidavit dated 22.08.2023 in response to the queries raised by this Tribunal vide order dated 11.08.2023 wherein it is submitted that the land owned by respondent No.8 – Mona Atul Patel is 22,810 sq.mtrs. and the second land holder (not a party to this proceeding) owns 4000 sq.mtrs., thus totally equivalent to 26,810 sq.mtrs. of all the survey numbers in question. With respect to the existence of a pond in the said land, it is in the area of 2903.36 sq.mtrs. Respondent No.13 – CIDCO has approved the Development Plans on the survey numbers in question wherein pond is marked which is located specifically in Survey No.48/6 and some part of 48/10 and 48/11. The said pond is also visible in google images which are annexed at Exhibit-G (page 86 of the paper-book). Respondent Nos.8 and 9 were issued Commencement Certificates by respondent No.4 –

Vasai Virar Municipal Corporation on 01.11.2022 in the name of Mrs. Mona Atul Patel through Power of Attorney holder Mr. Mohammad Yusuf Abdul Kureshi, partner of M/s Sagar Developers and M/s Nirmal Developers.

7. Looking to the fact that main grievance raised by the applicant appears to be filling up of a pond by respondent Nos.8 and 9 for the purpose of construction, which, according to him, is prohibited activity and for that, it is stated that the said land area should be restored, we deem it appropriate to constitute a Joint Committee comprising of one member each of Central Pollution Control Board (CPCB), Maharashtra Pollution Control Board (MPCB) and Environment and Climate Change Department, Govt. of Maharashtra. The MPCB shall be the nodal agency of the said Committee. The Joint Committee shall visit the site in question, verify the contents of the allegations made in this Original Application and submit action taken report within four weeks.

8. Put up this matter for next consideration on 10.01.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

October 11, 2023
O.A. No.104/2023(WZ)
npj