

Mentioned Matter

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**I.A. No.237/2023(WZ) & I.A. No.238/2023(WZ)
In
Execution Application No.01/2018(WZ)
In
Original Application No.08/2015(WZ)
(Disposed of on 03.07.2017)**

Saukhyada Enterprises (Shubharambh Lawns) & Siddhi Gardens

.....Intervener

In

Sujal Sahakari Gruha Rachana Sanstha Maryadit

.....Applicant

Versus

Pune Municipal Corporation & Ors.

....Respondent(s)

Date of hearing: 08.12.2023

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

Applicant/Intervener : Mr. R.B. Mahabal, Advocate for Intervener

ORDER

1. These applications have been filed with the following prayers:-

- “ A. Daily Order dated 10/10/2023 in Execution Application No.01/2018(WZ) and Judgment dated 03/07/2017 in Original Application No.08/2015(WZ), applies only in respect of the violations under environment related Acts in Schedule-I and Rules framed thereunder.
- B. Violations under any other Acts OR Rules shall be dealt with under the appropriate Acts and Rules, strictly under those respective Acts, Rules and as per the procedure as laid down under those respective Acts / Rules.
- C. The Daily Order 10/10/2023 OR Judgment 03/07/2017 does not preclude the lawful remedies available to the applicant.
- D. Any other order or clarification as deemed fit. AND for this act of kindness, respondent as duty bound, shall ever pray.”

2. The main argument raised by the learned counsel for Intervener/applicant is that this Tribunal had passed an order dated 10.10.2023 in E.A. No.01/2018 to the following effect:-

“5. In view of this, it is made clear that the PMC shall bring this fact to the notice of the lower court by filing replies to get the said stay order be set aside, if at all they have been granted indicating therein that the lower courts do not have jurisdiction against any order passed by this Tribunal as only appeal is maintainable before the Hon’ble Apex Court. This should be done at the earliest and in future, whenever any show cause notice is required to be issued, it shall clearly indicate therein the date of order passed by this Tribunal and the case number in which the same was passed, pursuant to which the notices are being issued.”

3. On the basis of that order, the respondent No.1/PMC has issued them notice dated 01.12.2023, which is annexed at page nos.19 to 20 of above-mentioned I.A. The learned counsel for Intervener/applicant submits that the violation, which is being alleged by the respondent No.1/PMC, is that of the MRTP Act, because the demolition is being ordered to be done even of those properties, which are not falling in the blue line of the river in question, rather they are trying to demolish the property, which is outside the blue line, hence a clarification is needed to be passed that if a violation is of the MRTP Act, then the demolition of that property, which is falling outside the blue line, should not be done by the PMC. The learned counsel for Intervener/applicant wants this clarification to be made by us.

4. We would like to make it clear that in Original Application No.08/2015(WZ), following order was passed:-

“26. (j) The Respondent No.1-PMC and Respondent No.3-Chief Engineer, Irrigation Department are directed to jointly identify the unauthorized construction and/or dumping carried out by the marriage halls/lawns, within the blue line flood zone of River Mutha along the DP Road Pune stretching from Mhatre Bridge to Rajaram Bridge, within 02 weeks from today and carry out demolition/removal of such construction/dumping/filling for ecological restoration of riverine zone of River Mutha within 04 weeks thereafter.

Commissioner PMC and Chief Engineer Irrigation Department shall file a compliance affidavit promptly after the compliance period. Collector, Pune and Commissioner of Police, Pune are directed to provide all necessary help to the PMC and Chief Engineer Irrigation Department for compliance of the above directions.”

5. This direction along-with other directions, which have already been passed in the said order and compliance was required to be made within four weeks of that order/Judgment. When the same did not happen, an execution application has been filed before us, which is being Execution Application No.01/2018(WZ). It is in this Execution Application that we had passed an order dated 10.10.2023 for execution of the same, of which clarification is being sought now. We make it clear that no clarification is required from our side, if the PMC has transgressed its jurisdiction by demolition of the property falling outside the blue line of the river in question, they will be held separately accountable by the Intervener/applicant and by approaching the appropriate forum.

6. I.A. No.237/2023(WZ) & I.A. No.238/2023(WZ) stand disposed of accordingly.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

December 08, 2023

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