

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.01/2024(WZ)
I.A. No.02/2024(WZ)**

Vishal Shantaram Darwatkar

.....Applicant

Versus

Union of India through Secy., MoEF&CC & Ors.

....Respondent(s)

Date of hearing: 04.01.2024

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

Applicant : Mr. Tanaji Gambhire, Advocate along-with
Mr. Vijay Mhaske and Ms. Kajal Mandge, Advocates
and Mr. Vishal Shantaram Darwatkar, applicant in-person

ORDER

1. This application has been filed with the prayers that demolition order be passed in respect of illegal construction of residential and commercial building project by the name "Ganga Ishanya & Ganga Nakshatra" raised by the respondent No.10-M/s. Mahanagar Reality/Project Proponent at Survey Nos.19A/3A(P) [CTS No.373 (P), 375, 376, 377(P) & 378(P)] on Pune- Satara Road behind Shri Shankar Maharaj Math, Village: Dhankawadi, Taluka: Haveli, District: Pune, as well as demolition of illegal structures constructed in prohibited zone of 6 mtrs. from natural water body- Ambil Odha Nallah; a direction be issued to MPCB/respondent No.4 to recover the EDC for violations of CTE & CTO & gaps in obtaining the same; and a direction be issued to the Central Ground Water Authority to impose appropriate damages upon the

Project Proponent for ground water extraction from bore-well & open well and to prepare a plan for the restoration of open water well.

2. The submission made by the learned counsel for applicant is that the Project Proponent was issued EC dated 22.03.2013, annexed at page nos.139-147 of the paper book, for the present project for total BUA 71,476.68 sq. mtrs. with Building Configuration- Residential Buildings: 03 Nos.; Commercial Building: 01 No.; Residential Building Configuration: 03 basement + 1S (stilt) + 20 floors; and Commercial Building Configuration: Ground floor. The Project Proponent after having obtained the said EC, changed the scope of the project by raising construction of 21 floors in Building A & B and sought *ex-post-facto* EC dated 14.09.2019, which is annexed at page no.254 of the paper book. A perusal of the said EC would indicate that the same is issued by the name "Expansion of Residential Construction Project by Mahanagar Realty", where-in total BUA sanctioned to be 94,945.38 sq. mtrs.. When we enquired from the learned counsel for applicant as to where it is mentioned in it that it is *ex-post-facto* EC, he drew our attention to the Occupancy Certificate dated 21.09.2018 issued by the PMC, annexed at page nos.176-177 of the paper book, from which it is apparent that the Occupancy Certificate is issued even for the 21 floors, while the 2nd EC dated 14.09.2019 is of subsequent date. Based on it, it is alleged that it is an *ex-post-facto* EC granted in the garb of expansion of the project, which is illegal as prior EC is required to be obtained before making construction of 21 floors in the aforesaid buildings.

3. The learned counsel for applicant did admit that the Building Plan was approved in the year 2015 for 21 floors in Building A & B. But he insisted that prior to raising the construction of 21 floors, the prior EC

was required to be obtained. Hence, it will amount to violation of the EC terms & conditions.

4. Thereafter, the learned counsel for applicant has drawn our attention to 3rd EC dated 12.05.2022, which is annexed at page no.403 of the paper book, where-in total BUA is mentioned to be 1,15,100.00 sq. mtrs. and shows that previously EC was granted for one building + Ground floor + Mezz + 5P + 29 as regards building D and the same was changed to one building + Ground floor + Mezz + 5P + 26, which would indicate that the number of floors was reduced with respect to building D by this EC and it appears that this EC has been granted because of the change in the project configuration.

5. Besides the above facts, it is also pointed out by the learned counsel for applicant that there were several gaps in obtaining CTE & CTO, which are also covered under violation at the end of the Project Proponent.

6. Our attention is also drawn by the learned counsel for applicant to the violations to have been done by the respondent No.10/Project Proponent for raising certain constructions in buffer zone of the water body, which was a prohibited activity.

7. In view of above violations, we find *prima facie* case adversely impacting environment is made out, therefore, we deem it appropriate to admit this application and accordingly admit the same.

8. Registry is directed to issue Notice to the respondents, returnable within 04(four) weeks.

9. Applicant is directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also

on available e-mail/WhatsApp and submit service affidavit within one week.

10. Applicant is also directed to provide copy of the application and relevant documents to the respondents within a week.

11. Respondents are directed to submit their reply affidavits within four weeks and also circulate the same to the applicant as also other respondents by available e-mail.

12. Rejoinder, if any, is directed to be submitted within one week thereafter.

Put up this matter on 07.03.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 04, 2024
Original Application No.01/2024(WZ)
I.A. No.02/2024(WZ)
P.Kr