
(2017) 04 BOM CK 0026

In the Bombay High Court

Case No : Notice of Motion Lod. No. 88 of 2017 In Public Int. Litigation No.86 of 2014

Yeshwanth Shenoy

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 27-04-2017

Acts Referred:

Citation : (2017) 04 BOM CK 0026

Hon'ble Judges : V.M. Kanade and C.V. Bhadang, JJ.

Bench : Division Bench

Advocate : Yeshwant Shenoy, Advocate, for the Petitioner in person in PIL No.86 of 2014; Sharan Jagtiani i/b. S. Venkateshwar, Advocates, for the Petitioner in W.P. Lod. 673 of 2017; Simil Purohit with Rati Lodha and hesta Mehta i/b. Lodha Legal, Advocate, for the Applicant in N.M. Lod. 88 of 2017; Owen Menezes with Ibrahim Merchant i/b. I.Z.Merchant, Advocate, for the Applicant in N.M. No. 240 of 2017; Amol Mhatre, Aftab Duiamondwala, Aditya Deolekar and Ketaki Puli i/b. Diamondwala & Co, Advocate, for the Petitioner in R.P. Lod. No.1 of 2017; Aftab Diamondwala & Aditya Deolekar i/b. Diamondwala & Co, Advocate, for the Petitioner in R.P.Lod.No.2 of 2017; Rajiv Chavan, Senior Advocate with Dushyant Kumar, Advocate, for the Respondent No.1 and 3 in P.I.L. 86 of 2014; Anil Singh ASG with Mrs. Shilpa Kapil, Advocates, for the Respondent No.2 in PIL No.86 of 2014; A.R. Verma with Y.R. Mishra, Advocates, for the Respondent No.1 in W.P.No.808 of 2015; Rahul Sinha with Samir Malik i/b. DSK Legal for S.R.A, Ms. Shobha Ajitkumar with Sagar Patil, Advocates, for the Respondent BMC in W.P.808 of 2015; Ms. Trupti Puranik with Sagar Patil, Advocates, for the Respondent BMC in PIL 86 of 2014; Ram Mani Upadhyay, Advocate, for the Applicant in NMW Lod.143 of 2017

Final Decision : Disposed Off

Judgement

1. We had by our orders dated 10th August 2016 and 8th September 2016 directed the Municipal Corporation to demolish the 4th, 5th and 6th floors along with water tanks on the terrace of the building known as "Sunita". An affidavit in reply has been filed by one Laxmikant Kolekar on behalf of the Corporation. The

said affidavit is filed for the purpose of pointing out the compliance of our earlier orders. In the said affidavit in reply it is stated that the Corporation has demolished the 5th and 6th floors completely along with water tanks on terrace. So far as Wing "A" is concerned, the demolition will be completed within next seven days. The statements in the said affidavit in reply are accepted. We hope that within next ten days the directions are complied with. Apology tendered in the affidavit in reply is accepted.

2. Pursuant to our directions given on the last date, a study report enumerating guidelines which are to be followed while doing aeronautical study by concerned Communication and Navigation System (CNS) is tendered. The same is taken on record. Copy of this report be supplied to the petitioner and to the learned Senior Counsel appearing for Mumbai International Airport Ltd. (MIAL).

3. Since the copy of reply has been served on the petitioner and other respondents today, we propose to keep this matter on 4th May 2017 on supplementary board so that further directions can be given to Airport Authority and Director General of Civil Aviation (DGCA).

4. The DGCA has already informed the MIAL that the number of unauthorised structures given by them is actually 317 and not 319 and that they propose to give hearing to the owners of 42 structures on 4th and 5th May 2017 out of 51 structures. They have called for certain information from MIAL which shall be provided as soon as possible. We expect the DGCA to take this matter seriously and not insist upon technicalities.

5. During the course of submissions Mr. Shenoy, petitioner appearing in person has submitted that there are instances where permission has been granted by Airport Authority to two builders to construct 13 to 14 floors above the permissible height. The DGCA to immediately look into the matter. The petitioner is directed to inform the DGCA directly without routing it through MIAL the number and details of such structures. Upon receipt of this letter from petitioner the DGCA shall immediately verify the information which is given by the petitioner and take immediate action as per the Rules and Regulations.

6. S.O. to 4th May 2017 on the supplementary board.

7. In view of our earlier order dated 23rd March 2017, it is clarified that all pending proceedings may be processed but no final decision shall be taken without leave of this Court.