

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**MISC. CIVIL APPLICATION (ST) NO. 12897 OF 2015
IN
WRIT PETITION (ST) NO. 1342 OF 2015**

M/s Leading Hotels Ltd.	..	Applicant
V/s		
State of Goa & Ors.	..	Respondents

Mr. V.R. Dhond, Senior Advocate with Mr. Saket Mone i/b Vidhi Partners for the applicant.

Respondent no.7 in person in WP (L) No. 1342 of 2015.

CORAM: MOHIT S. SHAH, C.J.

DATE : 25 JUNE 2015

P.C.:

This application is filed by M/s Leading Hotels Ltd., the petitioner in Writ Petition (St) No. 1342 of 2015 filed before the High Court of Bombay at Goa for its transfer to the Principal Seat at Bombay.

2. The ground urged in support of the transfer application is that there are 4 writ petitions pending before the Principal Seat wherein the issue is the same as involved in Writ Petition (St) No. 1432 of 2015, namely:-

- “a. *The issue involved in all the writ petitions is the same, namely, that of the date for reckoning of the limitation u/s 14(3) of the NGT Act, 2010, i.e. whether it is the date when the cause of action first arose as provided in the statute or when the litigant learnt of all the illegalities upon a completion of all his inquiries, as held by the NGT in the orders impugned in the aforesaid writ petitions.*
- b. *It would save time and avoid multiplicity of proceedings.”*

3. Learned counsel for the applicant submits that respondent no. 7 herein has filed an appeal/application before the National Green Tribunal (Western Zone Bench), Pune challenging the Environment Clearance dated 12 April 2013 granted by the Goa State Environment Impact Assessment Authority and has now subsequently challenged the CRZ Clearance dated 9 December 2014 granted by Ministry of Environment & Forest.

The present applicant (opponent in the appeal) raised a preliminary contention that the appeal is time barred in so far as the challenge to the Environment Clearance dated 12 April 2013 is concerned. The contention raised was that in view of the provisions of section 16 of the National Green Tribunal Act, 2010 (“the Act”), the appeal is time barred. The said section 16 provides that an appeal shall be filed to the National Green Tribunal within a period of 30 days from the date on which the impugned decision is communicated and that the Tribunal can allow the aggrieved person to file an appeal within the extended period of 60 days. It was

submitted that the appeal/application filed beyond the period of 90 days is time barred and cannot be entertained. Learned counsel further submits that the Tribunal has by order dated 16 April 2015 not accepted the said preliminary contention after observing as under:-

“ The question of limitation is not isolated and must be decided having regard to the facts of each case. It is a mixed question of law and facts. It has co-relation with the bundle of facts which are unrolled and unplugged in the background of each case.

Learned counsel, therefore, submits that the Tribunal already having taken this view, the order dated 19 June 2015 passed by me in M.C.A. (St) No. 12909 of 2015 would not apply to the facts of the present case.

4. On the other hand, respondent no.7 (appellant before the Tribunal), who is present in person, has opposed the application and submitted that since in case of the same applicant an order was passed on 19 June 2015 rejecting the application for transfer, the present application arising from the same issue, i.e. challenge to the Environment Clearance dated 12 April 2013, may not be entertained.

5. Having gone through the order dated 16 April 2015 of the National Green Tribunal, Pune and having gone through the memo of appeal filed by respondent no.7 before the Tribunal, it

appears that the issue raised in the petition at Goa is squarely covered by the issue which is pending consideration before the Principal Seat at Bombay in Writ Petition No. 594 of 2015. It would, therefore, appear that two courses of action are open, viz. (i) to transfer Writ Petition (St) No. 1342 of 2015 to the Principal Seat at Bombay and to club it with Writ Petition No. 594 of 2015, or (ii) this Court at Goa may await the outcome of Writ Petition No. 594 of 2015.

6. In response to a specific query, respondent no.7 (appellant before the Tribunal) stated that he would prefer to await the outcome of Writ Petition No. 594 of 2015 at the Principal Seat at Bombay.

7. Accordingly Writ Petition (St) No. 1342 of 2015 will remain pending before this Court at Goa awaiting outcome of Writ Petition No. 594 of 2015 at the Principal Seat at Bombay.

Ad-interim relief granted earlier on 5 May 2015 shall continue till further orders. Writ Petition (St) No. 1342 of 2015 shall, however, be listed before this Court at Goa on 15 July 2015 so that the Court may be apprised of the developments in Writ Petition No. 594 of 2015 at the Principal Seat at Bombay.

The application accordingly stands disposed of.

CHIEF JUSTICE