

SQP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 190 OF 2014
IN
PUBLIC INTEREST LITIGATION NO. 218 OF 2013**

Abdul Rehemman Hasan Shaikh & Ors. ...Applicants

IN THE MATTER BETWEEN

Navi Mumbai Environment Preservation
Society & Anr. ...Petitioners

Versus

Ministry of Environment through its
Secretary, & Ors. ...Respondents

Mr. Yusuf Muchhala, Sr. Advocate with Mr. S. R. Nachan & Ms. Rashada
Ainapore i/b Judicare Law Associates for the Applicants

Vinod Kumar Punshi, Petitioner No.2 present in-person

Mrs. M. P. Thakur, A.G.P for the Respondent Nos.1, 4 to 6

Ms. Purnima Advani with Ms. Amrita Joshi i/b The Law Point for the
Respondent No. 2

Mr. Parag Vyas for the Respondent-U.O.I.

**CORAM : A. S. OKA &
REVATI MOHITE DERE, JJ.
MONDAY, 29TH JUNE, 2015**

P.C. :

1. Perused the application. By this Civil Application, the
applicants have challenged the action of demolition of *Bali Shah Baba*

Dargah on the basis of the notices issued under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966. Various prayers are made in the application including prayer for restoration as well as a prayer for restraining the respondent Nos. 2 and 3 from demolishing the structure of *Hazarat Sayed Ali Pir Amir Shah Baba Dargah*.

2. We have perused the stand taken by the CIDCO. The direction of this Court was to demolish illegal structures in accordance with law. If according to the case of the applicants, there is any illegality committed by any of the authorities by issuing notices and by demolishing the structure, the applicants will have to file a substantive petition challenging the said action. The issue whether the action is legal or illegal, will have to be independently decided in a substantive proceedings, if any, which may be filed by the applicants.

3. Accordingly, we dispose of the application by permitting the applicants to take out proceedings in accordance with law. Contention of the applicants as well as respondents on merits are kept open.

4. Ad-interim relief which was granted earlier on 17th December, 2014 shall continue to operate for a period of four weeks from today to enable the applicants to take out fresh proceedings.

(REVATI MOHITE DERE, J.)

(A. S. OKA, J.)