

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

CIVIL APPLICATION No. 40 OF 2016

IN

PUBLIC INTEREST LITIGATION No. 155 OF 2013

Piramal Estate Private Ltd

.... Applicant

vs

Vikrant Chandrahas Tawade

.... Respondent

WITH

CIVIL APPLICATION No. 19 OF 2016

IN

PUBLIC INTEREST LITIGATION No. 155 OF 2013

Ishwer Realty and Technologies Pvt. Ltd.

.... Applicant

vs

Vikrant Chandrahas Tawade

.... Respondent

Mr. Janak Dwarkadas Senior Advocate a/w Vithal Kanade &
Prachi Dhanani i/b Veritas Legal for Applicant in CAI 19 of 2016
Mr. R. S. Apte Senior Advocate a/w Mr. A. R. Pitale & T. P. Mendkule
for Corporation in both applications
Mr. Kishor Patil for Petitioner in PIL 155 of 2013
Mr. A. I. Patel AGP for State in both applications
Mr. Virendra Tulzapurkar, Senior Advocate a/w Mr. Nikhil
Sakhardande a/w Mr. Dhawal Mehta, Ms. Rati Patni,
Ms. Divyanka Kapoor i/b Wadia Ghandy & Co. for Applicant
in CAI 40 of 2016

**CORAM: ANOOP V. MOHTA AND
SMT. SADHANA S. JADHAV, JJ.**

DATE : 29 MARCH , 2016

ORDER:

Pending the Public Interest Litigation, in view of the order passed by

the Division Bench of this Court on 16/12/2015, applicants have taken out two separate applications for leave for implementing the decision of the Tree Authority taken at the respective meetings whereby all applications filed by the applicants, considering the objection and completing all the requisite formalities as contemplated under the provisions of Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (For short 'the said Act' read with decision given by this Court in Public Interest Litigation no. 93 of 2009 dated 20/09/2013 and after due enquiry. The decision taken which need to be implemented urgently, in view of the further development of the project.

2) Tree Authority has filed reply and placed on record all the relevant documents, enquiry reports and decision so taken. Respondents, pursuant to the order passed by this Court, placed on record a chart showing the permission granted to other similarly situated persons and the respective compliances of it. A submission is made that applicants have complied with all the requisite conditions. The decision is also taken by directing them to complete the requisite conditions so imposed. There is no issue in this regard of any party.

3) Learned counsel appearing for the petitioner, however has relied upon section 8 (3) & (4) of the said act. Statement is made that no personal hearing was given and therefore there is no question of granting any leave

as prayed.

4) Heard the counsel appearing for the parties. We have noted after hearing the parties and after going through the documents placed on record that the concerned Authority has followed all the due procedure, enquiry and has taken the decision after even considering the objections so filed and received after due publication as required. Petitioner admittedly submitted objection after paper publication. There is no objection raised after permission/decision was taken by the Authorities. In view of this itself, in our view, the submission revolving around section 8 (3) of the said act and the Proviso is not of any assistance to reject the applications so filed by the applicants.

5) Statement is made that there were about 88 applications filed by other persons/parties including applicants. All other 86 applications have been already considered and requisite permissions are granted. All those parties have acted upon the same. Submission raised only against these two petitioners in the present Public Interest Litigation, in our view is also not acceptable. All are similarly situated. The Tree Authority, being the Competent Authority has already considered the merits and objections so raised by the parties and decided to grant the permission. We see there is no case made out by the petitioner to reject such leave so prayed.

6) In the result, applications are allowed in terms of prayer clause (a) of

both applications, which read thus:-

7) Prayer clause (a) of Civil Application No. 40 of 2016:-

“(a) This Hon'ble Court be pleased to grant leave for implementing the decision of the Tree Authority taken at the meeting held on 28th December, 2015 read with the decision dated 21st January 2016 of the site inspection committee whereby said application dated 20th February 2015 of the applicant has been approved.”

8) Prayer clause (a) of Civil Application No. 19 of 2016:-

“(a) This Hon'ble Court be pleased to grant leave for implementing the decision of the Tree Authority taken at the meeting held on 28th December, 2015 whereby permission has been granted to the Applicant in relation to the Affected Lands.”

9) Applications stand disposed of accordingly.

10) Parties to act upon authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)

(ANOOP V. MOHTA, J.)