

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

WRIT PETITION NO. 9282 OF 2016

Shri Sudhendu Mewalal Shah	... Petitioner.
Versus	
The Tree Authority, MCGM and Ors.	... Respondents.

Mr.Sudhendu Mewalal Shah (Petitioner-in-person) present.

Mr.Vinod Mahadik for Respondent No.1.

Mr.Pravin Samdhani, Senior Advocate with Mr.Bhavik Manek with Ms.Swapna Roopavala i/b. Mr.Tushar Goradia for Respondent No.2.

CORAM : K.K. TATED, J.

DATE : 28TH SEPTEMBER, 2016.

P.C. :

1] Heard Mr.Sudhendu Mewalal Shah, party-in-person,
Mr.Mahakik for respondent no.1 and Mr.Samdhani, Senior Advocate
for respondent no.2.

2] By this petitioner under Article 227 of the Constitution of
India, the petitioner is challenging the permission granted by the
Corporation to cut the trees from City Survey No.5808, Final Plot
No.274, TPS III of Village Ghatkopar at Ghatkopar (East) on 12th
November, 2009. The main contention of the party-in-person is that

the Corporation has not followed due process of law at the time of granting the said permission. The next contention of the party-in-person is that the trees bearing no.6, 7 and 8 are not within the construction area where the respondent no.2 is implementing the SRA project. The third contention raised by the petitioner is about the tree no.7. The Corporation has not given any serial number (7) to the tree. On these points, petitioner-in-person challenges the permission granted by the Corporation dated 12th November, 2009.

3] In the present proceedings, the respondent no.1 Corporation filed affidavit in reply dated 8th August, 2016 duly affirmed by Ms.Sangita Kishor Dere working as Deputy Superintendent of Garden (Zone-VI). They specifically stated in the said affidavit in reply that they followed due process of law as required under Section 8 (3) (A) of the Maharashtra (Urban Areas) Protection and Reservation of Trees Act, 1975. They also stated in the said reply that the tree bearing nos.6, 7 and 8 were in Final Plot no.274 where the respondent no.2 is implementing the SRA project. Paragraph 4, 6 and 7 of the said affidavit in reply reads thus;

- “4. I say that Hemant Parekh and Associates, Architect and Interior Designers had made an Application Dated 10th December 2008 on behalf of Respondent No.2 for being granted permission to cut tree in Final Plot No. 274, CTS No.5808, Ghatkopar (E) for the slum rehabilitation scheme of Nalanda Co-operative Housing Society I crave leave to refer to and reply upon the said application when produce.*
- 6. I say that after inspection these Respondent issued public notice on 7.8.2009 under the provisions of 8 (3) (A) of the Act. By the said public notice these Respondent calling for objections from the public at large for cutting of the said trees. The said notice was duly pasted at site on trees except tree bearing No.7 as there was no proper approach to the trees which are proposed to be cut. The matter is confirmed with the then tree officer who has visited site on 30.7.2016. I crave leave to refer to rely upon when produce.*
- 7. I say that as these Respondent did not receive any objections and thereafter issued the permission being No.DYSG/TA/MC/935 dt.12.11.2009. By the said permission the applicant was permitted to cut 3 number of trees bearing No.6, 7 & 8 and to transplant 1 number of tree bearing No.5. Hereto annexed and marked Exhibit 1, the copy of the said permission.”*

4] Bare reading of the affidavit in reply filed by the Corporation shows that they followed the due process of law at the time of granting permission to the respondent no.2. Apart from that as on today, the petitioner's structure is not in existence in Final Plot no.274 of Village Ghatkopar at Ghatkopar.

5] Considering this fact, I do not find any subsistence in the present Writ Petition. Hence, Writ Petition stands rejected.

(K.K. TATED, J.)