

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO. 41 OF 2015

Capt. Haresh Gaglani (Retd.) ...Petitioner
Versus
Brihanmumbai Municipal Corporation & Ors. ...Respondents

Mrs. Gauri Jadhav, i/b Mr. Tushar Jadhav, for the Petitioner.

Mr. A.Y. Sakhare, Senior Counsel, a/w Mr. Trupti Puranik, for Respondents No. 1 & 2.

Mr. S.C. Patel, for Respondent No. 3.

Mr. Mohit Jadhav, AGP for Respondent No. 4.

CORAM : A.S. OKA &
A.A. SAYED, JJ.
DATE : 28th June 2016

P.C. :

1. Heard learned Counsel appearing for the Petitioner, the learned Senior Counsel appearing for the Mumbai Municipal Corporation and the learned Counsel appearing for the 3rd Respondent. Learned Senior Counsel tenders an Affidavit of Smt. Medha Gogate, working as Deputy Superintendent of Gardens of the Municipal Corporation. She has stated therein that possession of the

garden in question is taken over by the Municipal Corporation on 24th May 2016. The possession receipt which is signed by the coordinator of 3rd Respondent and the Assistant Superintendent of Garden F/N ward is also annexed to the Affidavit. The photographs of the entrance of the garden showing the boards put up by the Municipal Corporation stating that the garden is in possession of the Municipal Corporation have been produced. The learned Counsel appearing for the Petitioner has tendered certain photographs. She states that schedule of programme of the 3rd Respondent for June and July 2016 is displayed on a structure in the garden. Learned Counsel appearing for the 3rd Respondent on instructions states that 3rd Respondent is not in possession of any part of the said garden or structures therein and the possession thereof has been taken back by the Municipal Corporation on 24th May 2016. Photographs tendered by the learned Counsel appearing for the Petitioner are taken on record and marked "**A-1 colly**" for identification.

2. Learned Senior Counsel appearing for Municipal Corporation tenders photographs of the structures which show that the structures have been sealed. He states that now an agency appointed by the Municipal Corporation is looking after the

maintenance of the garden. The said photographs are taken on record and marked "**A-2**" for identification.

3. In view of the statements made in the Affidavit of Smt. Medha Gogate and the statements made on instructions of 3rd Respondent, now there is no need to entertain this Public Interest Litigation.

4. If the Petitioner finds that the 3rd Respondent still continues in possession, the Petitioner can take out an appropriate Application in this Public Interest Litigation, though it is disposed of. By accepting the aforesaid all statements, the Public Interest Litigation is disposed of.

[A.A. SAYED, J.]

[A.S. OKA, J.]