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

WRIT PETITION (L) No. 1500 OF 2016

Nina Bagai Hajela

....Petitioner

Vs.

Union of India and Ors.

....Respondents

Mr. Saket Mone a/w. Mr. Vishesh Kalra a/w. Mr. Subir Chakraborty i/b. Vidhi Partners for Petitioner

Mr. D.P. Singh for Respondent No.1

Mr. Sharmila Deshmukh for Respondent No.2

***CORAM : V. M. KANADE &
M.S. SONAK, JJ.***

DATE : JUNE 27, 2016

P.C. :

1. By this petition, which is filed under Article 226 of the Constitution of India, the Petitioner is seeking the following reliefs:

“(a) That this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order and direction in the nature of Mandamus thereby directing the Respondent No.2 to consider the Application/ proposal of the Petitioner forwarded by the Respondent No.3 within a period of two

weeks and grant the CRZ clearance in accordance with law without being influenced by the Orders passed by the National Green Tribunal (Western Zone) dated 10th February, 2016 and 26th May, 2016 or any further orders;

(b) for costs of the petition and orders thereon; and

(c) for such further and other reliefs, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. It is not in dispute that the application filed by the Respondents is pending before the NGT.

3. It is the case of the Petitioner that by virtue of the modification of the MOEF Notification dated 19th February, 1991, the land of the Petitioner now falls in CRZ II. It is submitted that, therefore, an order may be passed, directing the MCZMA to process the Petitioner's application without being influenced by the orders passed by the NGT (Western Zone) dated 10th February, 2016 and 26th May, 2016.

4. We have perused the order passed by the NGT. In the first paragraph, the NGT has clarified as under:

“ We are of the opinion that the first part of the order needs modification. But the order virtually bars accepting of Application and processing it for consideration. Thus, maintaining the order passed by us, we feel that we can permit the MCZMA to process the Applications if it has received and process it in accordance with law. But not to declare its result till further order.”

5. The NGT, therefore, has clearly permitted the MCZMA to process the Petitioner's application. The matter is now adjourned to 28th July, 2016. In our view, therefore, since the Petitioner's application is pending before the NGT and is posted for further hearing on 28th July, 2016, it is opened for the Petitioner to make a request to the NGT to modify the last part of the order. We are, therefore, of the view that it will not be possible to interfere with the said order since the matter is still pending before the NGT. Reserving the said right of the Petitioner, the petition is disposed of. All contentions raised by the Petitioner in this petition are kept open. MCZMA to process the application of the Petitioner.

M.S. SONAK, J.

V.M. KANADE, J.