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

WRIT PETITION NO.5156 OF 2015

Savita Oil Technologies Limited	...	Petitioner
V/s.		
The State of Maharashtra and ors	...	Respondents

Mr. J. K. Hegde, for the Petitioner.
Mr. S. B. Kalel, AGP for the Respondent State.
Ms. Shyamli Gadre I/by Little & Co. for
Respondent No.2.
Mr. S.V. Marne and Mr. Mandar Bagkar, for
Respondent No.3.

**CORAM : A. A. SAYED &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 6 DECEMBER, 2017.

P.C. :

1] This petition filed under Article 226 of the Constitution
seeks the following reliefs:-

- a) This Hon'ble Court be pleased to direct the Respondents, their representative or any person acting through them not to permit the commercial exploitation or any construction work on the said open plot of land now numbered as Plot No.PAP C-75 or any part thereof, which shall obstruct the normal flow of rain and storm water exists from the factory premises of the Petitioners and from the

general outlet provided outside the compound of the factory premises.

- b) This Hon'ble Court may be pleased to direct the Respondents to make appropriate measure or provision for discharge of rain and storm water from the north side of factory premises and also from the general outlet to the main culvert in the interest of justice;"

2] Despite efforts being made, the newly added Respondent No.4 M/s Gothivali Enterprises has remained to be served. However, in the nature of order, we propose to pass, the rights of Respondent No.4 would not be affected.

3] We have heard learned counsel for the Petitioner, learned AGP for State and learned counsel for Respondent No.3.

4] Learned Counsel for the Petitioner has pointed out the affidavit-in-reply filed by respondent No.3 Navi Mumbai Municipal Corporation. In paragraph Nos. 5, 6 and 7 it is stated as follows :-

"5. I further say that, the NMMC has also addressed letter dated 04.04.2016 to Dy. Commissioner of Police (Traffic), Navi Mumbai pointing out possible congestion of traffic on account of allotment of plots including Plot No.PAP C-75 to project affected persons. A copy of the said letter dated 04.04.2016 is annexed hereto and marked as **Exhibit "C"**.

6. I further say that, in the TTC Industrial area, NMMC

has undertaken major work of widening of existing roads from 2 lanes (7.5 Mtrs wide) to 4 lanes (24.40 Mtrs wide) i.e. wall to wall development. Accordingly, the road from Savita Chemicals to Mahpe junction has also to be widened from 2 lanes to 4 lanes. Similarly, a Flyover is being constructed at the junction where the said Plot No.PAP C-75 is located on Thane Belapur Road. Therefore, in order to maintain smooth vehicular traffic, it is not appropriate to have any development on the land which has numbered plot No.PAP C-75 as well as land which has been numbered as Plot No.PAP C-68 to PAP C-74 and PAP C-77. The map produced by the Petitioner at Page 44 shows the location of the said plots on the junction of Thane Belapur Road and road adjoining Savita Chemicals to Mhape Junction.

7. I further say that, NMMC has been pursuing the matter for handing over the land which has been numbered as Plot Nos. PAP C-68 to PAP C-75 and PAP C77 with MIDC. NMMC is not the planning authority in respect of the said land owned by MIDC. Therefore, there is no question that NMMC granting any development permission in respect of PAP C75. However, in view of the circumstances pointed out hereinabove, it would be appropriate if MIDC also does not grant any development permission on the land numbered as Plot Nos. PAP C-68 to PAP C-75 and PAP C-77 and allots alternate land to the project affected persons”.

5] Having considered the issues involved in the Petition, in our view the Petition can be disposed of by passing the following order:-

Order

i) In the event the Development Permission is proposed to be granted to Respondent No.4 by Respondent No.2-M.I.D.C./Respondent No.3 Navi Mumbai Municipal Corporation, the said Respondents shall give prior notice of three weeks to the Petitioner and grant an opportunity of hearing to the Petitioner .

ii) The Petition is disposed of in above terms.

iii) We make it clear that we have not expressed any opinion on the merits of the matter and all contentions of the parties are kept open.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[A. A. SAYED, J.]