

Sequeira

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

PUBLIC INTEREST LITIGATION NO. 36 OF 2016

Mangesh Namdeo Shelar.	.. Petitioner
Vs	
The State of Maharashtra and others.	.. Respondents

*Along with
CIVIL APPLICATION NO. 77 OF 2017
(Intervention Application)*

*In
PUBLIC INTEREST LITIGATION NO. 36 OF 2016*

M/s.Unnathi Associates	.. Applicant / Intervener.
<i>In the matter between</i>	
Mangesh Namdev Shelar.	.. Petitioner
Vs	
The State of Maharashtra and others.	.. Respondents

*Along with
CIVIL APPLICATION NO. 82 OF 2017
(Intervention Application)*

*In
PUBLIC INTEREST LITIGATION NO. 36 OF 2016*

Mr.Rajesh Shinde and another.	.. Applicants / Interveners.
<i>In the matter between</i>	
Mangesh Namdeo Shelar.	.. Petitioner
Vs	
The State of Maharashtra and others.	.. Respondents

Along with
PUBLIC INTEREST LITIGATION NO. 25 OF 2016

Shri Amol Ratan Balwadkar.	.. Petitioner
Vs	
The Commissioner, Pune Municipal Corporation and another.	.. Respondents

Along with
CIVIL APPLICATION NO. 79 OF 2017
In
PUBLIC INTEREST LITIGATION NO. 25 OF 2016

Shri Amol Ratan Balwadkar.	.. Applicant / Petitioner
Vs	
The Commissioner, Pune Municipal Corporation and another.	.. Respondents

Along with
CIVIL APPLICATION NO. 100 OF 2017
In
PUBLIC INTEREST LITIGATION NO. 25 OF 2016

Karan Bhagwantrao Mane and others.	.. Applicants / Interveners.
<i>In the matter between</i>	
Mr.Amol Ratan Balwadkar.	.. Petitioner
Vs	
The Pune Municipal Corporation and others.	.. Respondents

Along with
CIVIL APPLICATION NO. 101 OF 2017
In
PUBLIC INTEREST LITIGATION NO. 25 OF 2016

Karan Bhagwantrao Mane and others.	.. Applicants / Interveners.
<i>In the matter between</i>	
Mr.Amol Ratan Balwadkar.	.. Petitioner
<i>Vs</i>	
The Pune Municipal Corporation and others.	.. Respondents

Mr.Vijay Patil, for the Petitioner in PIL No.36 of 2016.

Mr.P.K.Dhakephalkar, Senior Advocate a/w Mr. Ram Apte, Senior Advocate a/w. Yatin Malvankar i/b. Mandar Limaye, for Respondent No.3 in PIL No.36 of 2016.

Mr.A.B.Vagyani – Govt. Pleader a/w Ms. M.P. Thakur – AGP, for Respondent-State in both PILs.

Mr.Anurag Jain, for the Petitioner in PIL No.25 of 2016.

Mr. Ravi Kadam, Senior Advocate i/b Mr. Vishwanath Patil for Respondent - Corporation in PIL No.25 of 2016.

Mr.Saket Mone i/b M/s Vidhi Partners, for Applicants / Interveners in C.A No.100 of 2017 and C.A No.101 of 2017.

***CORAM : DR. MANJULA CHELLUR, C.J. &
N.M. JAMDAR, J.***

DATE : OCTOBER 11, 2017.

P.C.:

These two Public Interest Litigations pertain to grievance of deficit of water supply / no water supply to areas of Ghodbunder Road in Thane District and Balewadi in Pune District. The matters are kept pending from April 2017 onwards.

2. When the Petitioners complained the grievance of non-supply of water to several buildings having flats, inspite of Occupancy Certificate / Commencement Certificate already given so also complaint of deficit water supply to buildings already occupied by the owners or occupants of those buildings, several directions came to be made from time to time. The respective Corporations have also placed on record the steps they have already taken and the course of action they propose to take, in case of any deficit or non-compliance is brought to their notice. It is also brought to our notice that there is a mechanism of on-line complaint being addressed to the concerned local authority which in the normal course should be redressed within a reasonable time. Apparently, the grievance of the Petitioners in both the PILs is to the effect that such complaints are not attended to by the concerned authorities therefore, we had to pass certain orders as interim measures and the same are pending for the last six to seven months. There is also grievance of the Petitioners that on account of supply of water from local authority for the construction activity undertaken by several developers, the water supply to the day-to-day necessities of the local residents is being affected. Under such circumstances the local residents are forced to purchase water tankers or adopt other mode of service of water facility.

3. So far as Pune District is concerned, number of buildings which have come up within the last five years, it is brought to our notice that there is no water supply or deficit water supply. Similarly,

such contention was raised with regard to District of Thane, especially Ghodbunder road. We had directed both the local authorities from Pune and Thane not to issue Occupancy Certificate / Commencement Certificate till next date of hearing. Though the matters are kept pending for the last several months except the Petitioners who are alleged to be espousing the cause of the general public, no independent intervener has approached this Court so far as complaining or supporting the allegation of the Petitioners that there is deficit water supply or no supply of water.

4. Mr.Kadam Senior Advocate, appearing for local authority, Pune Municipal Corporation, brought to our notice that one step additional to the normal course of redressal was taken by Pune Municipal Corporation, by addressing letters to about 150 Societies having apartments, asking them to attend the grievance redressal meeting proposed by Municipal Commissioner. We are surprised to hear that none of such meetings were attended by those Societies or the occupants of the buildings in the Societies. If really the water problem is severe as expressed by the Petitioners, the aggrieved person ought to have approached these persons, since several months the matters are kept pending. We cannot totally shut our eyes or opine that there is no water problem at all in these two Corporation limits. It may not be to the extent expressed by the Petitioners, but there is bound to be water supply problem with new buildings coming. In that view of the matter, we are of the opinion, every time

the aggrieved party cannot approach the Court through the Public Interest Litigation and get an answer from the Court. It would be just and proper to appoint committee in each of these districts so that the aggrieved party can approach the committee placing their grievance before the committee which can redress the grievance after taking note of the factual situation and hearing all the parties concerned. It would be advisable to have such committee sitting atleast once in two months. The committee should consist of people who are actually involved in the redressal of the water problem, faced by the residents in those areas. Therefore, we are of the opinion that in the respective districts of Pune and Thane, if the committee is formed consisting of Divisional Commissioner, Municipal Commissioner, Chief City Engineer of the respective authorities who is in charge of water supply in the local authority along with Member, Secretary of District Legal Services Authority in respective districts, would sit once in two months to address the grievance brought on record by the aggrieved parties, so far as deficit water supply or non-supply of water, coming within the jurisdiction of the above two local authorities. We make it clear that the grievances to be addressed are in respect of domestic water supply alone and not other deficits of water supply.

5. We direct the respective local authorities to create public awareness with regard to the formation of the committees for the purpose of redressing domestic water supply problem in the respective local authority jurisdiction. The committee is directed to

report to the Court from time to time the functioning of the committee by sitting once in two months.

6. In the light of above measures, the restrictions imposed on the local authorities by orders from this Court with regard to prohibiting them to issue Occupancy Certificates / Commencement Certificates have to be reconsidered by us. Apparently, the buildings which are to come up where the Occupancy Certificates / Commencement Certificates have to be issued, are to be issued to facilitate the purchasers of the flats who occupy the flats purchased by them. If this restriction or prohibition continues, the purchasers of the flats would face difficulty in not getting the accommodation purchased by them. Therefore, we raise the prohibition imposed and we permit the two local authorities to proceed with the issuance of Occupancy Certificates / Commencement Certificates strictly adhering to the procedure contemplated with regard to supply of domestic water to the building where the Occupancy Certificate / Commencement Certificate has to be issued. We make it clear that such restriction or prohibition may be imposed in future, if the Court is convinced that inspite of the above measures, the domestic water supply grievance is not properly redressed by the concerned authorities.

7. The petitions are disposed of so far as the Public Interest Litigations are concerned but the matters are kept pending in order to

see the functioning of the committee and the action to be taken by the local authorities and other authorities concerned. We also make it clear, any aggrieved party is at liberty to bring to the notice of the Court, if there is violation of any of the directions made above.

8. In view of the above order, all the above Civil Applications stand disposed of.

N.M.JAMDAR, J.

CHIEF JUSTICE