

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

**CRIMINAL APPLICATION NO.52 OF 2016
IN
CRIMINAL PUBLIC INTEREST LITIGATION NO.39 OF 2015**

Waman H Koli : Applicant/Petitioner.
versus
State of Maharashtra and ors. : Respondents.

Mr. G J Waity for the Applicant/Petitioner.
Mrs. P P Shinde, APP for the Respondent No.1/State.
Mr. Milind Sathe, Senior Advocate a/w Mr. Kunal Waghmare for the
Respondent Nos.2 to 5.

**CORAM : R. M. SAVANT &
SMT. SADHANA S JADHAV, JJ.**
DATE : 13th JUNE 2017

P.C.

1 The above Criminal Application has been filed by the original
Petitioner seeking a direction that the Municipal Corporation of Greater
Mumbai (for short "MCGM") i.e. the Respondent No.2 and the Trombay Police
Station i.e. the Respondent No.8 be directed to follow the directions given by
the Division Bench of this Court in the order dated 17/02/2016. A further
direction is sought that the Respondent No.2 i.e. the MCGM be directed to
carry out soil investigation and to initiate the procedure for inviting tenders to
construct the Community Welfare Centre and Library at CTS No.263 situated at
Trombay Koliwada, Near Fish Market, Mumbai – 88.

2 The above Criminal PIL was filed principally for the relief that the

soil investigation of the land for the construction of sanctioned redevelopment of Vetaleshwar Hall at Trombay Koliwada, Mumbai be directed to be carried out. Implicit in the said relief was the implementation of the reservation of Community Welfare Centre and Library which was sought by the Petitioner. The above PIL came to be disposed of a Division Bench of this Court by judgment and order dated 17/02/2016. The Division Bench of this Court observed that since the MCGM proposes to develop the property and construct the Community Welfare Centre and the Library as per the reservation earmarked in the development plan, and since there was an obstruction for carrying out the said proposed construction work, the Division Bench directed the local police i.e. the Trombay Police to provide protection to the contractors who are appointed by the MCGM for the said work. It was observed that the cost of the police protection would be borne by the MCGM. As indicated above, the above Civil Application has been filed for the reliefs which have been adverted to herein above.

3 On behalf of the MCGM, an affidavit in reply of one Shri Abhay Janardan Sabnis – Executive Engineer (Building Construction) E.S. has been filed to the above Civil Application. It has been stated in the said affidavit in reply that on 10/05/2016 i.e. after the order was passed by the Division Bench of this Court, when the soil investigation started, hundred of villagers gathered on the said spot and they strongly opposed the said soil investigation work. It

is on account of the said opposition that the soil investigation work could not be carried out. It seems that thereafter on 04/07/2016 in the Lokshahi Din conducted under the supervision of the Municipal Commissioner, one Shri Sanjay Vaity pointed out that the residents of the Trombay village, who have constituted themselves as Adivasi Koli Mandal, do celebrate the festivals like Dahi Handi, Holi, Ram Navmi etc. by using the said open space and existing stage (Hall). It was therefore conveyed that the villagers are not in favour of the said plot being redeveloped by the construction of Community Welfare Centre and the Library. The sentiment expressed by the said Sanjay Vaity on behalf of the Adivasi Koli Mandal was directed to be taken cognizance of, on the basis of which a note was put up by the Assistant Commissioner of M/East Ward in which note it was stated that on account of the opposition of the villagers to the redevelopment of the plot, it would be appropriate if the existing Community Welfare Centre and the Library are renovated. The said note put up by the Assistant Commissioner, M/East Ward has been approved by the concerned Deputy Municipal Commissioner and thereafter the Municipal Commissioner as can be seen from the endorsement made on the said note which is annexed to the affidavit in reply at Exhibit-C. Hence the MCGM has now taken a decision to renovate the existing Community Hall and keep the open space vacant so that the villagers can use the same for the purpose for which they have been using it in the past. In view of the said decision taken by the MCGM, it is not necessary now to consider the grant of the reliefs sought

vide the above Criminal Application. In view of the decision now taken by the MCGM, the learned Senior Counsel appearing for the MCGM Shri Milind Sathe states that the work of renovation of Community Hall would commence after the monsoon gets over and would be completed latest by 30/04/2018. The MCGM may also consider having library in the Community Hall. The above Criminal Application stands disposed of as having turned infructuous.

[SMT. SADHANA S JADHAV, J]

[R.M.SAVANT, J]