

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP) NO. 26516 OF 2017

Bavkhaleshwar Mandir Trust .. Petitioner
versus
The Municipal Commissioner,
Navi Mumbai & Ors. .. Respondents

Dr. Veerendra Tulzapurkar – Senior Advocate with Mr. Nikhil Sakhardande, Mr. Ajay S. Patil for Petitioner in WP (ST) 26516 of 2017.
Mrs. M. P. Thakur – AGP for State.
Mr. Sandeep Marne for Respondent No. 1.
Ms Shyamli Gadre i/b. M/s. Little & Co. for Respondent No. 2.

AND
CIVIL APPLICATION (STAMP) NO. 28612 of 2017
IN
PUBLIC INTEREST LITIGATION NO. 53 OF 2013

Sandeep Sharadchandra Thakur .. Applicant /Petitioner
versus
The State of Maharashtra & Ors. .. Respondents

Mr. Sandeep Thakur – Applicant / Petitioner present in person.
Mrs. M. P. Thakur – AGP for State.
Mr. Sandeep Marne for Respondent No. 2.
Mr. Sarthak Diwan i/b. A. M. Kulkarni for Respondent No. 4.
Dr. Veerendra Tulzapurkar – Senior Advocate with Mr. Nikhil Sakhardande i/b. Mr. Ajay S. Patil for Respondent Nos. 5 and 6.
Mr. J. M. Joshi for Respondent No. 7.

CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.

Date of Reserving the Order : 14 November 2017
Date of Pronouncing the Order: 28 November 2017

COMMON ORDER :

1] Heard Dr. Veerendra Tulzapurkar with Advocate Mr. Nikhil Sakhardande for the petitioners and Mrs. M. P. Thakur, learned AGP for State, Mr. Sandeep Marne for Respondent No. 1 and Ms Shyamli Gadre for Respondent No. 2 in writ petition.

2] Heard Mr. Sandeep Thakur for applicant / petitioner in civil application (stamp) No. 28612 of 2017 and the aforesaid learned counsel for the respondents.

3] Taking into consideration the issues involved, it is only appropriate that the writ petition and the civil application are disposed of by a common order.

4] The petitioner challenges the order / decision dated 10th August 2017 made by and on behalf of the respondent no.1 refusing to regularise unauthorised construction put up by the petitioner on open space no. 12 in 'C' Block of the Trans Thane Creek (TTC) Industrial Area, which admeasures 1119.82 sq. meters.

5] Dr. Tulzapurkar submits that the impugned order / decision dated 10th August 2017 is made in breach of principles of natural justice and fair play since, no proper hearing was afforded to the petitioner. He submits that the impugned order / decision contains no reasons as to why the petitioner's plea for regularisation came to be rejected. He submits that there is no consideration of the petitioner's case that the structure, which is a temple, is very old and therefore qualifies for regularisation in terms of the policy of the State Government incorporated in circular dated 5th May 2011. He submits that the impugned order / decision is vitiated by non application of mind. For all these reasons, he

submits that the impugned order / decision warrants interference.

6] The learned counsel for the respondents submit that there are directions for demolition of the unauthorised construction, which have already attained finality. They point out that public notices were issued and the petitioner failed to submit any explanation or reasons to either demonstrate that the structure in question is not illegal or unauthorised or the reasons why the same should be regularised. They submit that this is a case where the petitioners have encroached on open space and therefore there is no question of claiming regularisation as a matter of right. They submit that there are orders and directions issued by the Hon'ble Supreme Court directing all authorities to take action against illegal constructions on public properties and open spaces. They submit that there is no breach in the compliance with principles of natural justice and fair play. They submit that the impugned order / decision may therefore not be interfered with.

7] Mr. Sandeep Thakur submits that the petitioner having put up an illegal and unauthorized structure in a high handed manner, is obstructing its demolition right since the year 2010 by filing frivolous proceedings. He submits that the civil application taken out by him is basically to seek implementation of the order made by this Court on 5th July 2013 in public interest litigation no. 53 of 2013 instituted by him. He submits that despite the said order having attained finality, the authorities are reluctant to enforce the same. Learned counsel appearing for MIDC upon whose open space unauthorised construction has been put up also submits that despite requests for police protection to implement an order, no such police protection is forthcoming. Accordingly, she support the application taken out by Mr. Sandeep Thakur.

8] In this case, there is no dispute whatsoever that the petitioner has encroached on open space no. 12 in 'C' Block of Trans Thane Creek (TTC) Industrial Area and put up a religious structure to the extent of 1119.82 sq. meters. The only contention now raised is that this is an old structure put up even before the acquisition of the land by the Maharashtra Industrial Development Corporation (MIDC) which has established the TTC Industrial area. Again, there is really no material produced in support of any such contention.

9] Mr. Sandeep Thakur had instituted a PIL 53 of 2013 seeking appropriate directions to various statutory authorities including the MIDC to take action against several illegal constructions put up on public lands and open spaces by various parties. This includes the structure and encroachment made by the present petitioner, who was impleaded as respondent no. 6 in PIL 53 OF 2015.

10] The Division Bench of this Court comprising Dr. D. Y. Chandrachud (as His Lordship then was) and S. C. Gupte, JJ. disposed of the public interest litigation by judgment and order dated 5th July 2013. The discussion in so far as the present petitioner and the unauthorised construction put up by it is to be found in paragraphs 14, 15 and 16 of the judgment and order dated 5th July 2013, which read as follows:

“14. Insofar as the encroachment on MIDC land is concerned, a letter has been addressed on 5 February 2013 by the Deputy Engineer of MIDC (Exhibit-I to the petition) indicating the nature of the encroachment after the regional office surveyor had visited the site of Plot No.O.S.12, MIDC, TTC Industrial Area on 4 February 2013. The extent of the encroachment is summarized in the following chart from the letter :

Sr.No.	Details of encroachment	Area of encroachment in M ²
1	Area under constructed temples trust office and pump house.	1,119.82 M ²
2	Area under coconut tree plantation	54,800 M ²
3	Area under lawn	20,100 M ²
4	Area under pond / lake	9,500 M ²
5	Area under paving in front of temple and surrounding to temple.	6,800 M ²
6	Area under nalla	1,250 M ²
7	Area under asphalted road	16,000 M ²
8	Vacant hilly land	22,911 M ²

15. MIDC has filed an affidavit in these proceedings to the effect that there is an encroachment by the Sixth Respondent on open space no.12 in 'C' block of the Trans Thane Creek (TTC) Industrial Area to the extent of 1,119.82 sq.meters. MIDC has stated that the Deputy Engineer of the special planning authority issued a notice on 26 February 2010 under the Maharashtra Regional Town Planning Act, 1966 followed by notices under Section 55 on 8 November 2010 and 8 February 2013. The trustees have denied that there is any encroachment and stated that the temple is old. **Here again, the extent of the encroachment and the absence of any permission of MIDC indicates that a property vesting in the MIDC as special planning authority has been encroached upon on a large scale. Apart from issuing notices since 2010, the officials of MIDC have not taken any steps till date. Encroachment on such a massive scale cannot be possible without the complicity and active connivance of the officials of MIDC.** The period which has been specified in the notice under Section 55 has already expired but no action has been taken.

16. **In the circumstances, we direct MIDC to pursue and take action forthwith in pursuance of the notices which have been issued in accordance with law. If MIDC requires the assistance of the law and order machinery, that shall immediately be made available."**

(Emphasis supplied)

11] The petitioner, instituted special leave petition (civil) no.24346 of 2013 to question the directions in the judgment and order dated 5th July 2013. A statement was made on behalf of the petitioner that the petitioner was not heard before the directions were issued by the Division Bench of this Court in its judgment and order dated 5th July 2013. After noting such contention, the Hon'ble Supreme Court by order dated 12th August 2013 issued notice to the respondents and directed the parties to maintain *status quo*.

12] The special leave petition was dismissed as withdrawn on 9th May 2017 by the Hon'ble Supreme Court. It is pertinent to note that the Division Bench of this Court made its judgment and order dated 5th July 2013 in PIL 53 of 2013 after hearing the counsel for the petitioner Mr. R. S. Datar which position is reflected in the judgment and order. The only contention that is raised by the petitioner was that there was no encroachment on the open space. This contention was never substantiated.

13] There is no clarity as to why the directions of the Division Bench made on 5th July 2013 were not implemented by the concerned authorities for almost four years. In the matter of this nature, where, the Division Bench, had clearly observed that the encroachment is massive and such encroachment cannot be possibly without the complicity of active connivance of the officials of the MIDC, the least that was expected was expeditious action not only against the massive encroachment on open space belonging to MIDC but also action against officials who permitted or tolerated this kind of massive encroachment on open spaces.

14] After a period of four years, the petitioner instituted writ petition no. 9045 of 2017 before this Court claiming to have come across a Government circular dated 5th May 2011 which permits regularisation of religious structures put up before the year 2009. The petitioner submitted that representation has already been made seeking for regularisation and directions were sought to the authorities to consider such representations in the light of circulars dated 5th May 2011 and 21st October 2015.

15] The Division Bench of this Court comprising B. R. Gavai & M. S. Karnik, JJ. by order dated 14th August 2017 directed the State Government to dispose of the petitioner's representation in accordance with law in the meanwhile, not to take steps for demolition of the structures put up on the encroached open spaces. The Division Bench noted that the petitioner will abide by the decision of the State Government and in the event the State Government finds that the structures are not eligible for regularisation or relocation, the petitioner shall not cause any hurdles to the respondent MIDC demolishing the structures.

16] Mr. Sandeep Thakur attempted to intervene in writ petition no. 9045 of 2017, after the petition was disposed of on 14th August 2017. The Division Bench made an order on 29th August 2017 refusing to recall its earlier order pointing out that this Court had already recorded that in case the petitioner's representation for regularisation is rejected, the petitioner will not create any hurdles to the respondent MIDC demolishing the structures. At this stage, the counsel appearing for MIDC stated that the State Government has already decided the matter and the petitioner's

representation seeking regularisation stands rejected. All this is incorporated in the order dated 29th August 2017 made by the Division Bench in writ petition no. 9045 of 2017.

17] There is no merit in the contention of the petitioner that there was failure of natural justice or fair play. In fact, the State, in pursuance of several directions issued by the Hon'ble Supreme Court from time to time has constituted a Committee to initiate action against encroachments and illegal constructions put up on public property and open spaces. The structure of the petitioners was duly identified by this Committee and notified vide public notice / advertisement way back on 31st December 2016. In terms of the public notice, the structure is referred to at sr. no. 15 at Schedule 'B'. The petitioner, who now vaguely complains of failure of natural justice, did not even bother to file any objections or seek any regularisation in pursuance of said public notice.

18] The Committee, almost eight months after the issue of public notice, has rejected a claim for retention of the structure or regularisation thereof. In fact, it was not at all proper for the petitioner to have suppressed the notice dated 31st December 2016 at the stage of institution of writ petition no. 9045 of 2017.

19] The circulars or the resolutions dated 5th May 2011 and 21st October 2015 obviously do not entitle the petitioner for regularisation of its encroachment and illegal constructions as a matter of right. This is a case where open space of an industrial estate has been high handedly encroached upon by constructing a religious structure thereon. Except for submitting that this is an old structure, there is not a semblance of authority or permission produced on record in defence of such a massive

illegal construction and encroachment on public property. The Division Bench of this Court in PIL 53 OF 2013 had already directed the MIDC to initiate again for removal of such encroachment. Special leave petition against the said direction has since been dismissed.

20] The petitioner, purports to raise defences in instalments and thereby, prolonging the action already initiated by the authorities. To begin with, the encroachment was denied. Then it was urged that the structure was put up before acquisition of lands by MIDC. Now, it is virtually conceded that there is encroachment on MIDC's open space and the plea is now for regularization. The attempt is only to prolong the high handed usurpation of public property and open space. This is not permissible. No plea was made by the petitioner at the stage of disposal of PIL 53 of 2013 to the effect that the illegal construction and encroachment undertaken by the petitioner qualifies for any regularisation under any circular or policy of the State Government. There is no clarity as to whether such a plea was raised before the Hon'ble Supreme Court in the special leave petition instituted to challenge the judgment and order dated 5th July 2013. Even assuming that such a plea was raised, the same, stands rejected consequent upon withdrawal of the special leave petition. For almost four years, the directions of the Division Bench were not complied with. The petitioner did not even bother to file any objections or raise plea of regularisation in pursuance of the public notice dated 31st December 2016. The petitioner, in such circumstances is not entitled to any relief as claimed for.

21] The Supreme Court, having taken cognizance of the spate of unauthorised religious constructions / encroachments in public streets, lands and places has been issuing directions from time to time to the

States / Union Territories to take remedial measures. There are several orders in this regard reported in 2011 (14) SCC at pages 42, 52, 60 and 62.

22] In ***Jagpal Singh & Ors. vs. State of Punjab & Ors. [(2011) 11 SCC 396]***, the Hon'ble Supreme Court, at paragraph 4, has observed as follows :-

“ 4. What we have witnessed since Independence, however, is that in large parts of the country this common village land has been grabbed by unscrupulous persons using muscle power, money power or political clout, and in many States now there is not an inch of such land left for the common use of the people of the village, though it may exist on paper. People with power and self operating in villages all over India systematically encroached upon communal lands and put them to uses totally inconsistent with their original character, for personal aggrandisement at the cost of the village community. This was done with active connivance of the State authorities and local powerful vested interests and goondas. This appeal is a glaring example of this lamentable state of affairs.”

23] In *Jagpal Singh* (supra), the plea for regularisation of encroachments on Gram Panchayat land was rejected by the Hon'ble Supreme Court by observing in no uncertain terms that long duration of occupation or huge expenditure incurred in making the constructions were not at all any valid considerations for plea of regularisation of such encroachments. In the said decision, the Supreme Court, issued directions to all State Governments in the country that they should prepare schemes for eviction of illegal / unauthorised occupants of Gram Sabha / Gram Panchayat and other lands for common use of villages of the concerned village. It was directed that the scheme should provide for speedy eviction of illegal occupants after giving them a show cause notice and the brief hearing. Long duration of such illegal occupation or

huge expenditure in making constructions thereon or political connections are not justification for regularising such illegal acts or for regularising such illegal occupations. The Supreme Court ruled that regularisation should be permitted only in exceptional cases e.g. where lease is granted to landless labourers or members of scheduled castes / scheduled tribes or where there is already a school, dispensary or other public utility on the land.

24] In ***Friends Colony Development Committee vs. State of Orissa (2004) 8 SCC 733***, the Supreme Court warned against routine regularisation of illegal constructions. It was observed that local authorities have the staff consisting of engineers and inspectors whose duty is to keep watch on building activities and to promptly stop illegal constructions or deviations coming up. They often fail in discharging their duty. Either they do not act or do not act promptly or do connive at such activities apparently for illegitimate considerations. If such activities are to stop some stringent actions are required to be taken by ruthlessly demolishing the illegal constructions and non-compoundable deviations. The Supreme Court further observed that regulations like size of the yards, courts and open spaces achieve the larger purpose, public health, safety or general welfare. Any violation of zoning and regulation laws takes the toll in terms of public welfare and convenience being sacrificed apart from the risk, inconvenience and hardship which is posed to the occupants of the building. The Supreme Court has held that municipal law permits deviations from sanctioned constructions being regularised by compounding but that is by way of exception. Unfortunately, the exception with the lapse of time and frequent exercise of the discretionary power conferred by such exception, has become the rule. Only such deviations deserve to be condoned as are *bona fide* or are

attributable to some misunderstanding or are such deviations as where the benefit gained by demolition would be far less than the disadvantage suffered. Other than these, deliberate deviations do not deserve to be condoned and compounded.

25] In ***Shanti Sports Club vs. Union of India (2009) 15 SCC 705***, the Supreme Court, at paragraphs 74 and 75 has made the following observations in the context of illegal constructions, encroachments and attempted regularisation:-

*“74. In the last four decades, almost all cities, big or small, have seen unplanned growth. In the 21st century, the menace of illegal and unauthorised constructions and encroachments has acquired monstrous proportions and everyone has been paying heavy price for the same. Economically affluent people and those having support of the political and executive apparatus of the State have constructed buildings, commercial complexes, multiplexes, malls, etc. in blatant violation of the municipal and town planning laws, master plans, zonal development plans and even the sanctioned building plans. **In most of the cases of illegal or unauthorised constructions, the officers of the municipal and other regulatory bodies turn blind eye either due to the influence of higher functionaries of the State or other extraneous reasons.** Those who construct buildings in violation of the relevant statutory provisions, master plan, etc. and those who directly or indirectly abet such violations are totally unmindful of the grave consequences of their actions and/or omissions on the present as well as future generations of the country which will be forced to live in unplanned cities and urban areas. The people belonging to this class do not realise that the constructions made in violation of the relevant laws, master plan or zonal development plan or sanctioned building plan or the building is used for a purpose other than the one specified in the relevant statute or the master plan, etc., such constructions put unbearable burden on the public facilities/amenities like water, electricity, sewerage, etc. apart from creating chaos on the roads. The pollution caused due to traffic congestion affects the health of the road users. The pedestrians and people belonging to weaker sections of the society, who cannot afford the luxury of air-conditioned cars, are the worst victims of pollution. They suffer from skin diseases of*

different types, asthma, allergies and even more dreaded diseases like cancer. It can only be a matter of imagination how much the Government has to spend on the treatment of such persons and also for controlling pollution and adverse impact on the environment due to traffic congestion on the roads and chaotic conditions created due to illegal and unauthorised constructions. **This Court has, from time to time, taken cognizance of buildings constructed in violation of municipal and other laws and emphasised that no compromise should be made with the town planning scheme and no relief should be given to the violator of the town planning scheme, etc. on the ground that he has spent substantial amount on construction of the buildings, etc....**

75. Unfortunately, despite repeated judgments by this Court and the High Courts, the builders and other affluent people engaged in the construction activities, who have, over the years shown scant respect for regulatory mechanism envisaged in the municipal and other similar laws, as also the master plans, zonal development plans, sanctioned plans, etc., have received encouragement and support from the State apparatus. As and when the courts have passed orders or the officers of local and other bodies have taken action for ensuring rigorous compliance with laws relating to planned development of the cities and urban areas and issued directions for demolition of the illegal/unauthorised constructions, those in power have come forward to protect the wrongdoers either by issuing administrative orders or enacting laws for regularisation of illegal and unauthorised constructions in the name of compassion and hardship. Such actions have done irreparable harm to the concept of planned development of the cities and urban areas. It is high time that the executive and political apparatus of the State take serious view of the menace of illegal and unauthorised constructions and stop their support to the lobbies of affluent class of builders and others, else even the rural areas of the country will soon witness similar chaotic conditions.”

(Emphasis supplied)

26] In **Royal Paradise Hotel (P) Ltd. vs. State of Haryana [(2006) 7 SCC 597]**, the Supreme Court rejected the plea for regularisation by

observing that no authority administering municipal laws can encourage violations. Even otherwise, compounding is not to be done when the violations are deliberate, designed, reckless or motivated. Marginal or insignificant accidental violations unconsciously made after trying to comply with all the requirements of the law can alone qualify for regularisation which is not the rule, but a rare exception.

27] In ***Esha Ekta Apartments Cooperative Housing Society Ltd. & Ors. vs. Municipal Corporation of Mumbai & Ors. [(2013) 5 SCC 357]***, the Supreme Court, while reiterating that no authority administering municipal laws and other similar laws can encourage violation of the sanctioned plan also observed that the courts are expected to refrain from exercising equitable jurisdiction for regularisation of illegal and unauthorised constructions which it would encourage of the planning laws and destroy the very idea and concept of the plan development or urban as well as rural areas.

28] As noted earlier, in this case, a patently illegal structure has been constructed by the petitioner by encroaching on the MIDC's open space in defiance of all rules, laws and regulations. Right from the year 2010, the petitioner has been resisting demolition by raising one issue after the other in instalments. The direction issued by this Court in its judgment and order dated 5th July 2013 in PIL 53 of 2015 has in fact attained finality and the direction, ought to have been enforced much earlier. There is nothing in the two circulars dated 5th May 2011 and 21st October 2015 which entitles the petitioner regularisation of the massive encroachment and illegal construction in open space of the TTC Industrial area established by the MIDC. There is no violation of principles of natural justice involved. To merely submit that the structure and the

encroachments are old, is certainly, not a reason good enough to consider plea of regularisation of blatant usurpation on public property / open space. No material has been produced in support of the plea that the construction and encroachment is old. The only plea was to remand the matter, perhaps to let the matter linger for years together. Taking into consideration the observations made by the Supreme Court in the various decisions referred to above, as also the facts on record, we see no merit in the plea and consequently, in the writ petition.

29] In civil appeal (stamp) no. 28612 of 2017 instituted by Mr. Sandeep Thakur – original petitioner in PIL 53 of 2013, directions are sought against the State of Maharashtra and the MIDC to take immediate steps to remove the encroachments and the illegal construction thereon and to repossess the encroached portion of the open space admeasuring 11120 sq. meters or thereabouts. Another relief applied for is to report compliance so that the matter is taken to its logical conclusion without any delay.

30] The learned counsel for the MIDC submitted that though the MIDC has requisitioned police assistance from the State, the same is not being provided. The Division Bench, in its judgment and order dated 5th July 2013 while disposing of PIL 53 of 2015 at paragraph 16 had directed MIDC to pursue and to take action forthwith in pursuance of the notices issued to the petitioner. In the same paragraph, it was made clear that if the MIDC requires the assistance of the law and order machinery they shall be immediately made available. The State Government, after correctly rejecting the petitioner's plea for regularisation was duty bound, in the circumstances, to make available the law and order machinery, in terms of the directions issued by this Court. The directions, as noted

earlier, have already attained finality. Accordingly, we direct MIDC to enforce the orders for removal of encroachment and illegal construction and we direct the State to provide necessary police assistance to the MIDC forthwith, so that, there is no undue delay in the matter. The action to be completed within a period of four weeks from today.

31] We also note that the Division Bench, in its judgment and order dated 5th July 2013 disposing of PIL 53 of 2013 had noted that the encroachment of massive scale resorted to by the petitioner was not possible without the complicity and active connivance of the officials of the MIDC. Since this is the position, it is necessary that MIDC identifies the officials responsible for permitting and tolerating such encroachment of massive scale are put up illegal construction in a totally high handed manner on the open space of the industrial area of the MIDC. MIDC to identify such officials and thereafter, take action as permissible under the law against such officials, so that, there is no dereliction when it comes to similar violations in future.

32] In ***Dr. G. N. Khajuria & Ors. vs. Delhi Development Authority & Ors. [1995(5) SCC 762]***, the Supreme Court at paragraph 10 has made the following observations :-

" Before parting, we have an observation to make. The same is that a feeling is gathering ground that where unauthorized constructions are demolished on the force of the order of courts, the illegality is not taken care of fully inasmuch as the officers of the statutory body who had allowed the unauthorised construction to be made or make illegal allotments go scot free. This should not, however, have happened for two reasons. First, it is the illegal action/order of the officer which lies at the root of the unlawful act of the citizen concerned, because of which the officer is more to be blamed than the recipient of the illegal benefit. It is thus imperative, according to us, that while

undoing the mischief which would require the demolition of the unauthorised construction, the delinquent officer has also to be punished in accordance with law. This, however, seldom happens. Secondly, to take care of the injustice completely, the officer who had misused his power has also to be properly punished. Otherwise, what happens is that the officer, who made the hay when the sun shined, retains the hay, which tempts others to do the same.

This really gives fillip to the commission of tainted acts, whereas the aim should be opposite."

33] The Division Bench of this Court, in ***Down Mangor Valley, Residents Welfare Association & Anr. vs. Mormuggao Municipal Council through its Chief Officer & Ors. [2002(3) Bom.C.R. 29]*** at paragraph 16 made the following observations :-

"16. Before parting, we may note that we must express our total unhappiness in the manner in which the second respondent has conducted this matter. However, considering the fact that earlier Notices of demolition had been issued and as the learned counsel on behalf of the second respondent also points out, the second respondent is due to retire shortly, though, in the first instance, we were inclined to direct some action, taking into consideration all these facts, we hesitate and decline to direct any action against respondent no.2. However, it may be made clear that the judgment of the Apex Court as expressed in the case of Dr. G.N. Khajuria & Ors. (supra) continues to hold the field. Officers who refuse to discharge their functions and/or allow mushrooming of illegal constructions when the same is brought to their knowledge, would be liable for action, including disciplinary action."

34] Accordingly, we dismiss the writ petition and allow the civil application (stamp) no. 28612 of 2017 in PIL 53 of 2013 in the following terms :

(A) The State and MIDC are directed to enforce the orders for removal of encroachment and illegal constructions put up by the petitioner in open space no. 12 in 'C' Block, Trans Thane Creek

(TTC) Industrial area forthwith, if necessary by taking police assistance. The action be completed within four weeks from today;

(B) The MIDC is directed to thereafter identify the officials responsible for permitting and tolerating such encroachment and illegal constructions on the open space and thereafter, to take action as permissible under the law against such officials;

35] In the facts and circumstances of the case, we leave the parties to bear their own costs.

36] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

(CHIEF JUSTICE)

37] At this stage, learned counsel for the Petitioner prays for stay. Prayer for stay is rejected.

(M. S. SONAK, J.)

(CHIEF JUSTICE)

chandka