

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
PUBLIC INTEREST LITIGATION NO.158 OF 2011

Jayshri Vijaykumar Jambhale.	..	Petitioner
Vs		
Kulgaon-Badlapur Municipal Council and Others.	..	Respondents
—		
Shri Kranti L.C. for the Petitioner.		
Shri C.G.Gavnekar for Respondent No.1.		
Shri Vikas Mali, AGP for Respondent-State.		
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CORAM : DR.MANJULA CHELLUR, C.J. &
N.M. JAMDAR, J.

DATED : 21ST SEPTEMBER 2017

PC:-

1. The dispute raised in this Public Interest Litigation is with regard to the plot bearing Survey No.39 situated at Kulgaon-Badlapur. According to the Petitioner, this land is a part of Kulgaon-Badlapur Forest which is categorically denied by the Respondent Kulgaon-Badlapur Municipal Council. According to the Respondent-Municipal Council, this land was to be purchased by the Municipal Council as per the price fixed by the Government for the purpose of constructing a Municipal Council Building. Since there was a vast area surrounding the building, several trees were planted numbering about 179. In other words, according to the Respondent Municipal Council, merely in view

of presence of good number of trees, the plot cannot be declared as a forest. They also bring to our notice the order dated 20th October 2008 at Page 123, Exhibit-VII to the PIL where the State has clarified the position. All these documents are placed on record by the Respondent Municipal Council.

2. The fact remains that much prior to the filing of the present PIL in the year 2011, a clarification was given way back in the year 2008 by the State opining that the land in question i.e. Survey No.39 is not a part of the forest. Therefore, we are of the opinion that the prayers sought and the grounds raised in the PIL need to be definitely looked into from different angle. The pleadings may not be befitting the factual situation which is brought on record by the Respondent Municipal Council.

3. Under these circumstances, we permit the Petitioner to withdraw this PIL reserving liberty to file a fresh Petition.

4. We note that there is already an interim order not to cut the existing trees in the guise of undertaking the construction. Even if it is not a forest land, a procedure has to be followed for cutting of the trees. However, we need not consider the said issue at this stage. The interim order restraining the Respondent Municipal Council from

cutting of trees by undertaking construction shall continue for a period of six weeks from today. Meanwhile, the Petitioner is at liberty to file a fresh Petition. Since the matter is contested between the parties where interest of the Municipal Council is involved, we direct the Petitioner to serve an advance copy of the Petition on the Respondents before mentioning.

5. The PIL is accordingly disposed of with liberty as above.

6. Civil Application is also disposed in view of the order passed in PIL.

(N.M. JAMDAR, J.)

(CHIEF JUSTICE)