

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

PUBLIC INTEREST LITIGATION NO. 45/2017.

Court on its own Motion.

-VERSUS-

The State of Maharashtra and others.

WITH CIVIL APPLICATION (O) NO. 966/2017 AND WRIT PETITION NO. 4107/2017 (Expo India
Exhibition .vrs. The State of Mah)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI
AND ROHIT B. DEO, JJ.

DATE : AUGUST 02, 2017.

Heard Shri S.P. Bhandarkar, learned Amicus, Shri D.P. Thakare, learned Addl. G.P. for respondent nos. 1 to 5 and 8, Shri J.B. Kasat, learned Counsel for respondent no.6 and Shri S.M. Puranik, learned counsel for respondent no.7. Shri A.M. Ghare, learned counsel for applicant in Civil Application No.966/2017 and Shri M.M. Sudame, learned Counsel for petitioner in Writ Petition No. 4107/2017.

2. Suo motu cognizance taken by this Court about status and exploitation of heritage structure in the City is the subject matter. Learned Amicus, has attempted to urge that not only 'Chatri' (structured

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umbrella house), in the said land, but, the entire open portion spread around it and enclosed by three roads is, heritage structure. According to him, therefore, it needs to be preserved as heritage structure without defacing it in any way.

3. At one stage he also urge that heritage structure may travel out of Maharashtra Regional and Town Planning Act, because of its status.

4. Learned counsel for the planning authority, as also respondent no.7 Heritage Committee and learned Addl. G.P. appearing for respondent nos. 1 to 4 and 8 have invited our attention to their respective reply-affidavits. They also point out that the resolution published in the government gazette on 18.10.2003 may have some bearing on the controversy.

5. They point out that as per Clause 13 thereof, a Heritage Conservation Committee is already constituted and is functioning. Illustrations mentioned in Clause 13.5 of this resolution are pressed into service by them to urge that the same are indicative of the user to which open land may be put. They also submit that instead this Court taking any decision at this stage, the Committee may be called upon to

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examine the grievance made by the applicants in Civil Application No.966/2017 or then by the petitioner in independent Writ Petition No. 4107/2017.

6. Applicants in Civil Application No.966/2017 points out that since last 50 years it has been using the open land continuously for 'Ravan Dahan' on Dushera day. They therefore, seek permission to intervene and to pass suitable orders to enable them to hold the annual function.

7. Shri Sudame, learned Counsel for petitioners in Writ Petition No.4107/2017 seeks permission to hold Trade Fair/Expo/exhibition between 16.12.2017 to 02.01.2018. He points out that in past such permission has been regularly given.

8. Learned Amicus has invited our attention to reply-affidavit filed on behalf of respondent nos. 3 and 4. He submits that a detail proposal along with map for beautification of Kasturchand Park has already been prepared and it is under consideration. According to him, the heritage structure needs to be protected and developed and beautification work as pointed out in the said affidavit is also required to be carried out.

9. At this stage when the Committee in the shape of respondent no. 7 is constituted and is

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functioning, we find it appropriate to direct the petitioners in Writ Petition No.4107/2017 and intervenors/applicants in Civil Application No. 966/2017 to go before that Committee. If they make suitable application pointing out their need and request permission, within a period of seven days from today, respondent no.7 Committee shall meet and take a suitable decision upon it within next four weeks. With these directions we dispose of the Civil Application 966/2017 as also Writ Petition No.4107/2017.

10. After hearing Shri Kasat, learned counsel we find need to look into the Gift Deed by which land is donated to State Government by Daga Family. Learned Addl. G.P. is seeking time of two weeks to place copy of the same on record. Time granted.

11. At this stage learned Amicus, has invited our attention to prayer clause [e]. He submits that several lands in prime locality in the city have been allotted at concessional rate to so called Charitable Public Institution and those lands are being let out for commercial purposes by those institutes. He submits that no reply till date has been filed by respondent nos. 1 to 4 or respondent no.8 in so far as this prayer is

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concerned.

12. Learned Addl.G.P. submits that as the issue in relation to Kasturchand Park ground was being pressed into service, in time given to respondents, reply only on that issue has been filed.

13. We direct respondent no.4 and respondent no.8 to file their separate affidavits pointing out the lands which have been leased out/allotted to such institutes/trusts/clubs for recreational and other activities, which are being commercially exploited by permitting holding of marriage, receptions etc.

14. The affidavits shall be filed within a period of three weeks from today.

15. Respondent no.4 Collector shall also direct all allottees to maintain and produce before him their accounts, at least for last three years in respect of above activities, if so directed by this Court.

16. List the matter for further consideration on 06.09.2017.

17. Copy of this order be furnished to learned counsel for the parties to act upon.

JUDGE

JUDGE

Rgd.