

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 5 OF 2018
IN
PUBLIC INTEREST LITIGATION NO. 41 OF 2006

The State of Maharashtra .. Applicant

In the matter between

Nashik Nagrik Kruti Samiti .. Petitioner

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. Tejas Dande I/b Tejas Dande and Associates, for the Applicant.

Mr. V.M. Mali, AGP for Respondents No. 5, 7 & 8 – State.

Mrs. S.V. Bharucha a/w Mr. N.D. Sharma, for Respondents No. 4 – UOI.

Mr. R.R. Lanjekar I/b Mr. M.L. Patil, for Respondents No. 2 & 3.

Mr. Kunal Chheda I/b M.V. Kini & Co., for Respondent No. 6.

CORAM : B.R. GAVAI &

M.S. KARNIK, JJ.

DATE : 29th OCTOBER, 2018

P.C. :

. The present Civil Application has been filed by the State for permission to fell/pull down total 27 trees in the premises of the office of Divisional Commissioner, Revenue

Department, Nashik Road for the purpose of the construction of the Auditorium.

2. When the matter was listed on 22/10/2018, we have passed the following order.

“The learned Counsel for the respondent states that out of 27 trees which are required to be removed, four trees have been re-planted. It is submitted that as compensatory measure, 50 trees have also been planted and more 200 trees are planned to be planted on Government land nearby.

2] The learned AGP to file affidavit of competent authority giving all the details of the present status of the 50 trees which are planted. Learned AGP should also take instructions as to whether by cutting only 12 trees the purpose would be served.

S.O. 29th October 2018. F.O.B.”

3. In pursuance to the aforesaid directions, an additional affidavit has been filed by Shri Changdeo Anna Sonawane working as Sub-Divisional Officer. In the said affidavit it is stated that the department has already planted 50 trees in the compound of the Divisional Commissioner. The said trees are of more than two years of age and are in good condition. It is further stated that out of 27 trees which are

required to be removed, the applicant is ready to transplant 4 trees in the same area. Affidavit further states that unless 27 trees are removed, it will not be possible to construct the Auditorium.

4. It is further stated in the additional affidavit that in addition to the 50 trees which are already planted by way of compensatory measure, 150 more trees would be planted in the said premises or the premises of Distillery Quarters area, Nashik.

5. It is further stated in the additional affidavit that for re-plantation and new plantation of trees, advanced and latest technology will be adopted. It is further stated that maintenance of the trees will be done by the Public Works Department with due care and by using advanced watering system and fertilizers, pesticides including guarding the trees with the tree guards.

6. In that view of the matter, we find that the Civil

Application deserves to be allowed.

7. Civil Application is allowed.

8. 27 trees are permitted to be pulled down. However, we direct the applicant that the statement made in the affidavit that transplantation of trees or the trees which are to be planted or which are planted will be taken due care by the Public Works Department, Nashik shall be made by giving undertaking to this Court.

9. We further direct that the Public Works Department, Nashik to ensure survival rate of the trees to be planted is maximum.

10. It is further directed that the Respondent – Authority shall number the 50 trees which are already planted and also 150 additional trees which they propose to plant.

11. Civil Application is disposed of in the above terms.

(M.S.KARNIK, J.)

(B.R.GAVAI, J.)