

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

**PUBLIC INTEREST LITIGATION NO. 115 OF 2013**

|                                      |   |             |
|--------------------------------------|---|-------------|
| <b>Mr.Hardas Hazarimal Tharwani</b>  | } | Petitioner  |
| <b>versus</b>                        |   |             |
| <b>State of Maharashtra and Ors.</b> | } | Respondents |

Mr.Pankaj J. Das for the petitioner.

Mr.M.M.Pable-AGP for State.

Mr.B.G.Tangsali I/b. Mr.R.S.Desai for respondent no.2.

Mr.Anish Khandekar for respondent no.3.

**CORAM :- S. C. DHARMADHIKARI &  
R. I. CHAGLA, JJ.**

**DATED :- NOVEMBER 6, 2019**

**P.C. :-**

1. A resident in Ulhasnagar Municipal Corporation limits complains through this public interest litigation (PIL) that there is no properly laid motorable road linking an area known as Hiraghat to Minister Complex and further to Samarpan Apartment.

2. On a perusal of this petition with its annexures, we are of the opinion that this litigant is confused. He understands a road and pavement to be one and the same. These are two distinct legally known concepts. A pavement or footpath is meant for walking of pedestrians. He says in the first part of the prayer that there

should be widening and construction of cement concrete pavement road from Hiraghat to Minister Complex and link to Samarpan Apartment. That is distinct from another work of a road which is highlighted. That work is contracted to respondent no. 3 and it is alleged that the said respondent has not laid a proper road. Though the work order was issued in the year 2006 and the work was to be completed in a time frame, that has not been completed. Thereafter, it was noticed that what was laid at site is not a proper motorable road complying with the standards and norms prescribed in that behalf.

**3.** We do not think that in writ jurisdiction we can ensure clear roads to every resident and the pavements free of construction and obstruction. If the High Court is expected to ensure that every single road or pavement is free from obstruction, then we will be only doing the work of entertaining the PILs and we will have no time for the regular civil appellate and criminal work. We will then also have no time to attend to constitutional matters. Therefore, we do not think that PIL should become a routine. That is an exceptional litigation. Secondly, the High Court is not equipped and possesses no expertise in such matters. Additionally, we want to say that it is not only because of the contractors and the Government officials that the roads are in bad condition or that

once laid, they are wiped out completely. Roads are laid for specific number of vehicles or there is a projection. Further, the length, width and the capacity to carry the vehicles is also limited. The vehicles also have to be loaded up to a particular level. If heavy vehicles fully loaded and more than the permitted load are allowed to ply on such roads, particularly internal roads in the cities, then, these roads cannot remain the same as they were laid initially. The members of public are equally to be blamed when roads are dug up by them for festivals and equally, when they are occupied by vendors. The pavements and the roads are spoiled when the vehicles beyond carrying capacity of the road continue to ply on the roads. In these circumstances, blaming public bodies only does not suffice.

**4.** The Public Interest Litigation is, therefore, entirely misconceived and it is disposed of accordingly.

**(R.I.CHAGLA, J.)**

**(S.C.DHARMADHIKARI, J.)**