

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

PUBLIC INTEREST LITIGATION NO. 140 OF 2016
WITH
CIVIL APPLICATION NO. 1 OF 2018
IN
PUBLIC INTEREST LITIGATION NO. 140 OF 2016

Shri Ishwarprasad G. Khandelwal & Anr. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

Mr. K. I. Khandelwal, Son of Petitioner No.1 present.

Mr. M. S. Lagu for Respondent Nos.2, 3, 6 & 7 and for Applicant in
CAI 1/18.

Ms. Nisha Mehra, AGP for Respondent Nos.1, 4 & 5.

**CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.**

DATE : 24th JULY, 2019.

P. C. :

1. The son of Petitioner No.1 has been heard.
2. Grievance projected in the Public Interest Litigation is to officers of Mira-Bhayandar Municipal Corporation demolishing a compound wall of Ganesh Temple and also cutting trees. By the time the Petition was filed, boundary wall and 4 trees had been felled. The response to the Writ Petition brings out that the temple in question is an encroachment and an unauthorized construction requiring the same to be demolished in view of directions dated 29.09.2009 issued by the Supreme Court in Civil Appeal No. 8519 of 2006.
3. Thus, no relief can be granted in the Petition concerning demolition of the boundary wall of the unauthorized construction.

4. As regards the grievance of felling of trees suffice it to highlight that under the Maharashtra (Urban Area) Protection and Preservation of Tree Act, 1975 no tree can be felled unless permission is obtained from the Tree Authority constituted under the said Act. Since the area falls within the jurisdiction of the Mira-Bhayandar Municipal Corporation, it would be an urban area and would require the permission to be obtained from the Tree Authority constituted by the Mira-Bhayandar Municipal Corporation.

5. Thus, the Public Interest Litigation is disposed of restraining the Respondents from cutting any tree in the jurisdiction of the Mira-Bhayandar Municipal Corporation without following the approval procedure contemplated by the Maharashtra (Urban Area) Protection and Preservation of Tree Act, 1975 from the Tree Authority constituted under the law.

6. In view of disposal of Public Interest Litigation, Civil Application No. 1 of 2018 does not survive and is disposed of.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]