

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

27 CRIMINAL APPLICATION NO. 1360 OF 2022
IN/WITH CRIMINAL WP/291/2022
WITH CRIMINAL APPLN/1513/2022 IN CRIMINAL WP/291/2022

TORNADO SOLARFARMS LIMITED, THROUGH, ITS DIRECTOR,
GOPINATH GOVINDAN
VERSUS
THE DIVISIONAL COMMISSIONER, NASHIK DIVISION, NASHIK AND
OTHERS

WITH
CRIMINAL APPLICATION NO. 1361 OF 2022
IN/WITH CRIMINAL WP/292/2022
WITH CRIMINAL APPLN/1512/2022 IN CRIMINAL WP/292/2022

GALE SOLARFARMS LIMITED, THROUGH ITS DIRECTOR GOPINATH
GOVINDAN
VERSUS
THE DIVISIONAL COMMISSIONER, NASHIK DIVISION, NASHIK AND
OTHERS

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Advocate for Petitioners/Applicants in Cri.Applications 1360/2022 and
1361/2022 : Mr. Shrikrishna Ganbavale i/by Mr. Akshay D. Kulkarni
APP for Respondent-State : Mr. S. D. Ghayal
Advocate for Applicants in Cri. Applications 1513/2022 and 1512/2022 :
Mr. Rahul S. Pawar

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CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 25th APRIL, 2022

PER COURT:-

1. Heard.
2. In compliance with the order dated 28.03.2022, particularly para 4 of the order, the petitioner companies have filed application before the Superintendent of Police for protection of its solar units and

transmission lines. However, by order dated 08.04.2022, the Superintendent of Police has refused to protect the solar units and the transmission lines for want of staff and the long duration of protection.

3. Learned APP, on oral instructions from Mr. Shrikant Patil, Assistant Police Inspector of Nizampur Police Station, submits that it is not possible for the respondent police authorities to grant protection to the solar units and the transmission lines of the petitioner companies for a continuous long period of three months. Learned APP submits that the petitioner companies may file an application seeking protection and the same may be considered for a period of one month at present. Learned APP submits that as per the instructions received from the Assistant Police Inspector, Nizampur Police Station, upon filing such an application by the petitioner companies, the concerned police station will provide two police officials, on appropriate charges as per Rules, to protect the solar units and the transmission lines of the petitioner companies for a period of one month after the orders issued by the Superintendent of Police of the District in this regard. Learned APP further submits that as per the oral instructions received from the Assistant Police Inspector, Nizampur Police Station, protection for a period of one month with the help of two police officials with appropriate charges as per Rules will be recommended positively to the Superintendent of Police.

4. In view of the above, we direct the petitioner companies to file appropriate application afresh with the Nizampur Police Station, Taluka Sakri and upon filing such application, the police authority may pass orders in terms of the statement made by the learned APP recorded as above.

5. The farmers have filed Criminal Application No. 1513 of 2022 in Criminal Writ Petition No. 291 of 2022 and Criminal Application No. 1512 of 2022 in Criminal Writ Petition No. 292 of 2022 for intervention. Learned counsel appearing for the original petitioners has no objection if the applications are allowed since these applications are filed at the pre-admission stage. The learned APP has also no objection if these applications are allowed.

6. In view of above and for the reasons stated in the intervention applications, the same are allowed in terms of prayer clause "A" respectively.

7. Learned counsel for the intervenors i.e. the farmers, on instructions from the farmers who are present before the Court, submits that the farmers will not create any obstacles in the process of production of solar energy and also will not cause any damage to the

solar equipments and the transmission lines of the petitioner companies. Learned counsel for the intervenors however submits that the intervenors-farmers have received very less amount of compensation and the petitioner companies have cleverly avoided to pay compensation amount to the farmers. Learned counsel submits that the farmers are ready and willing to refer the matter for mediation.

8. Learned counsel Mr. Ganbavale appearing for the petitioner companies, on instructions, submits that the petitioner companies have no objection if the matter is referred for mediation.

9. By consent, we appoint learned Advocate Mr. S. K. Kadam as the Mediator. The parties shall appear before the Mediator as per the Mediator's convenience.

10. We also permit M/s. Sarjan Realities Limited, Pune to participate in the mediation proceedings through the responsible person of the company.

11. We have carefully gone through the contents of both the Writ Petitions. We expect from the learned counsel for the petitioner companies to make appropriate submissions in terms of the provisions of Sections 63 and 63-1A of the Bombay Tenancy and Agricultural Lands Act, 1948.

12. In the instant case, the said Sarjan Realities Limited, Pune had purchased the land from the farmers under the pretext of “bonafide industrial use” in the year 2016 at a meager price which was prevailing at the time of execution of the agreement of sale in the year 2004. It further appears that the writ petitioner companies Tornado Solarfarms Limited and Gale Solarfarms Limited have purchased the said land from the said Sarjan Realities Limited, Pune under registered sale deed at the market price of the year 2016 i.e. almost ten times the consideration price paid by the said Sarjan Realities Limited, Pune to the farmers.

13. We request learned counsel appearing for the petitioner companies in the writ petitions to make appropriate submissions on the point as to the “bonafide industrial use” as referred in Section 63-1A of the Bombay Tenancy and Agricultural Lands Act, 1948.

14. It is brought to our notice by the learned counsel appearing for the applicants intervenors that the petitioner companies have purchased around 420 to 500 acres of land from the farmers. In terms of the proviso to Section 63-1A, we do not find that either the said Sarjan Realities Limited, Pune or the writ petitioner companies have obtained prior permission of the Development Commissioner (Industries).

15. Stand over to 15.06.2022.

16. Office to tag Criminal Writ Petition No. 850 of 2020 with the present two petitions.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

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