

Vidya Amin

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

WRIT PETITION NO. 3349 OF 2023

Abhijeet Deo & Ors.

... Petitioners

Versus

Thane Municipal Corporation & Anr.

... Respondents

Mr. Suhas Oak a/w. Mr. Vinod Utekar, Mr. Nikhil Shinde for the
petitioners.

Mr. N.R. Bubna a/w. Ms. Pooja Malik for the respondents.

**CORAM: G. S. KULKARNI
 & R.N. LADDHA, JJ.**
DATED: 24 April, 2023

P.C.

1. We have heard Mr. Oak, learned counsel for the petitioners and Mr. Bubna, learned counsel for the respondents-Thane Municipal Corporation (for short "**the Corporation**").

2. This petition is filed, making a grievance in regard to the alleged action of the respondents of carving out area of 3000 sq.ft. out of the Mahatma Gandhi Garden in Thane City, which is stated to be earmarked in the development plan as a green zone, and permitting it to be used by hawkers/handcart stall owners, who are conducting street foods business. It is contended that such activity is prohibited in the green zone and cannot be

permitted by the Municipal Corporation, which needs to be stopped. The prayers made in this petition reads thus:

“(a) writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order directing the respondents to restore Mahatma Gandhi Garden, Talao Pali (Masunda lake), Thane by demolishing the shade constructed in the said Mahatma Gandhi Garden, Talao Pali (Masunda lake), Thane;

(b) Pending the hearing and final disposal of this petition, the respondents be directed to restore Mahatma Gandhi Garden, Talao Pali (Masunda lake), Thane by demolishing the shade constructed in the said Mahatma Gandhi Garden, Talao Pali (Masunda lake) Thane.”

3. We have perused the reply. In the facts of the case, it is appropriate that the petition itself be treated as representation in regard to the objection as raised for in the petition, and the same be decided by the Municipal Commissioner or any officer authorized by the Municipal Commissioner and after hearing the petitioners, by a reasoned order, which shall be done within a period of three weeks from today. All contentions of the parties are expressly kept open.

4. Ordered accordingly.

5. Disposed of in the above terms. No costs.

(R.N. LADDHA, J.)

(G. S. KULKARNI, J.)