

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

**CIVIL APPLICATION NO.59 OF 2019
WITH
INTERIM APPLICATION NO.1996 OF 2020
WITH
CIVIL APPLICATION NO.58 OF 2019
WITH
CIVIL APPLICATION NO.15 OF 2019
IN
PUBLIC INTEREST LITIGATION NO.11 OF 2010
WITH
PUBLIC INTEREST LITIGATION NO.11 OF 2010**

The Superintendent,
Regional Mental Hospital, Thane

...Applicant

Versus

The State of Maharashtra and Ors.

...Respondents

...

Dr. Birendra Saraf, AG with Mr. P.P. Kakade, GP and Mrs. N.M. Mehra,
AGP for the Applicant.

Mr. A.V. Chatuphale for the Petitioner in PIL/11/2010

Mr. Ram Apte, Senior Advocate with Mr. Mandar Limaye and Mr.
Harshal Nahata for Respondent No.4.

Mr. Mihir Desai, Senior Advocate with Ms Rishika Agarwal appointed
as Amicus Curiae.

Ms Neeta Karnik for the Intervenor in IA/17552/2022

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED: MARCH 3, 2023.

P. C. :-

1. The Public Interest Litigation is filed for implementation of the provisions of Mental Health Act, 1986 in the Mental Hospitals in

the State of Maharashtra and various directions are also sought against the Respondents including relief of food and other reliefs to the patients admitted in the Mental Hospital. One of the Mental Hospitals is situated at Thane. The Division Bench of this Court under order dated 12/08/2015 in the PIL No.11 of 2010 directed the State Government and Collector, Thane that there shall not be any further allotment of the subject land to third party under any condition. The State Government and the Collector, Thane are further directed to contemplate steps to remove encroachment on the 10 acres of the land. The proposed steps were directed to be intimated to this Court before taking any action. It is further ordered to display signboard on the premises describing the possession of the subject property.

2. It is submitted that about 72 acres of land is donated for the Mental Health Hospital, Thane. There were encroachments on the said land. Some land was allotted to various societies by the Collector, Thane District. It was in view of the same this Court passed an interim order on 12/08/2015. The present application seeks modification of the said order on the ground that an area of 14.83 acres of the said land is required for construction of new railway station.

3. Dr. Saraf, learned Advocate General of the State submits

that Thane is one of the most crowded railway stations and has large number of increasing population. The existing infrastructure of the railway is not able to cope up with the vast growing city requirements. As such, there is urgent need of constructing a railway station between Thane and Mulund stations to reduce heavy congestion. The details are given of the number of passengers per day travelling by railway in the said vicinity. It is further submitted that Central Railway under two letters dated 30/03/2017 and 21/10/2017 requested for the development of new railway station near Mental Hospital area. An engineering scale plan has been prepared by the Central Railway on or about 04/01/2018 of the proposed railway station.

4. It is further submitted by learned Advocate General that Public Health Department forwarded proposal of the Municipal Corporation, Thane for allotment of 14.43 acres land of Thane Mental Hospital to the Ministry of Railways. Such proposal was placed before the Cabinet meeting of the State Government on 15/07/2018. The same was approved principally as it was in public interest. For effective implementation of the said proposal, 8 members committee was constituted under the Chairmanship of the Chief Secretary, Maharashtra State. The 8 members Committee submitted report that

the proposal is in the larger public interest. Because of the order dated 12/08/2015 the proposal cannot be further implemented.

5. Today the affidavit has been filed by the Medical Superintendent, Regional Mental Hospital, Thane on behalf of the Applicant No.1. It is clarified in the affidavit that Mental Hospital has 98 structures in which there are Female Wards, male wards and other establishments and offices. The Mental Hospital is nearly 100 years old and requires reconstruction and renovation.

6. Learned Advocate General submits that Government of India has launched Smart City Mission. The Thane Municipal Corporation got selected as one of the smart cities of Maharashtra State. The Smart City project is to be implemented. The general public gave an opinion that there should be bigger railway station or another railway station.

7. It will be appropriate to reproduce some of the excerpts of the affidavit filed on record as under:-

“7. I further say that the break-up of total area of 14.83 required for the construction of Railway Station is as per table given below:

Sr.No.	Requirement of land	Acre	m ²
1.	Land Requirement for Railway operation (including Station building, PF, tracks etc.)	3.88	15,712 m ²

2	Land requirement for circulating area	5.25	21,246 m ²
3	Land required for bus terminus	1.39	5.625 m ²
4	Land requirement for DP roads	4.31	17,719 m ²
	Total land area	14.83	60,015 m ²

The total land required is 14.83 acres, of which 10.13 acres are in the compound wall and control of the Thane Mental Hospital and 4.7 acres are outside the compound wall and through 2.76 acre there are access roads and 1.94 acres are affected by slum encroachment.

8. Pursuant to the requirements of the Central Railway, the proposal was moved by the State Government to allot part of the land of Mental Hospital for the new construction of Railway station. Hereto annexed and marked as **Exhibit 1** is the copy of the plan of the Mental Hospital Land with the area required for the Railway Station demarcated. On the said plan, the structures now existing on the area required for the Railway Station are also mentioned.

9. After making thorough survey of the condition and situation of the Mental Hospital with an advice of the Public Health Department, the Corporation has prepared a master plan to redevelop the entire Thane Mental Hospital campus with modern and state of art facilities for the patients, the entire designing is based on the guidelines of the National Institute of Mental Health and Neurosciences (“NIMHANS”) Bangalore. NIMHANS is a medical institution established under the National Institute of Mental Health and Neuroscience, Bangalore Act, 2012 and it is an institution of national importance and it is world renowned as a center for mental health, neurosciences and allied fields. The total capacity of the entire Mental hospital at present is 1850 patients which includes male and female but new proposed building as per enhanced plan will

increase capacity to 2184 beds which would add 334 new beds. The old Female Wards No.8,9,10 have capacity of 150 beds and the new construction will have 168 beds. The Ward No.2,3, 8,9 & 10 have 170 patients occupying beds and in the newly constructed 5 wards, the bed capacity will be increased to 250. The Thane Municipal Corporation decided to build a ground +1 structure to accommodate all the structures which are in the 14.83 acres of land. There are 16 structures which are getting affected by the land, which is proposed to be given to the new Railways Station between Mulund and Thane wherein 6 structures are in use and other structures are totally dilapidated which are not in use at all. The table of the structures which are affected. Hereto annexed and marked as **Exhibit 2** is the copy of the table of the structures which are affected. There are other small structures like out house, well, pump house, ECT room, chowky which will be relocated as per the NIMHANS plans in Phase 1 out in the chart hereinabove.

10. These 6 structures are basically used for female patients and it is called as Female Wards. There are at present 158 patients occupying beds. At the moment, per bed measurement is 5 sq.meters but as per the norms of NIMHANS (National Institute of Mental Health and Neuro Science), per bed size should be 10 sq meters and hence, in the newly constructed wards the size of per bed will be 10 sq.meters and there will be construction of 171 new bedded structures.

11. In the first phase Thane Municipal Corporation has already started work of the Female Wards after approval from public health department on the structures which are dilapidated and in use. Hereto annexed and marked as **Exhibit 3** is the copy of the blue print of the newly under construction Female Wards. I further say that the construction

shall be completed within 3 months from today at any cost and the patients from the affected area will be shifted in the newly constructed wards alongwith all the necessary equipments and to the satisfaction of the mental Health Department and also to the satisfaction of the Thane Mental Hospital officials. The first phase of the project will be undertaken by the Thane Municipal Corporation and the State Governments Public Health Department who will jointly develop the total Mental Hospital land as per approved plan as per NIMHANS. Only upon the construction of the female wards & to the satisfaction of the authorities, will the demolition of the old Female Wards be started and the land will be made available for the new Railway. Hereto annexed and marked as **Exhibit 4** is the copy of the Timeline of main activities to be carried out. The construction of Male Wards as well as the other administrative buildings as a part of the larger plan is also to be undertaken in near future with help of State Government and Public Works Department.

12. I further say that there will be sound barriers provided so that patients in the Mental Hospital will not be affected because of the trains and the sound of the mobs at the Railway Station, a 3 meter concrete wall will be provided between Railway Station and Mental Hospital which is as per norms of the NIMHANS. Hence, the interest of the Mental Health patients will be taken care properly. I further state that until now in all 70 meters of the wall is already constructed around the boundary of Mental Hospital and the work is in progress.

8. In the affidavit and so also the learned Advocate General has given a solemn assurance that unless the female wards which would be affected in construction of Railway Station are constructed and operated, old female wards would not be demolished. It is further

submitted that master plan has been prepared for the construction of the new buildings for the entire Mental Hospital Thane. It is further submitted that the development plan of the Thane city has been amended and 14.83 acres of the land from 72 acres land of Thane Mental Hospital is earmarked /reserved for railways. Today, the details are also given as to the period within which the construction of the affected wards and other structures so also the shifting would be completed. Same is reproduced as under:-

Sr. No.	Activity	Completion Date
1	Construction of affected Ward and other structure Shifting a. Ward Construction 8, and other affected structures b. Ward No.9 and other affected structures c. Ward No.10 and other affected structures d. Repair work of unused ward no.15, e. Repair work of unused ward no.16, f. New construction of Ward No.2 g. New construction of Ward No.3.	May, 2023 May, 2023 July, 2023 March, 2023 March, 2023 July, 2023 July, 2023
2.	Hospital Protection Work (compound Wall construction) New compound wall	June, 2023
3.	Railway Circulation Area development work a. Approaches from Dnansadhana college to proposed station land (outside of Mental Hospital Land) b. Other elevated road structures, Parking area and roads.	May, 2023 May, 2024
4.	Railway Operation area Actual work. a. Nalla Work with slab between Mulund to proposed new station area b. Laying new Rail Tracks c. Slewing of Existing slow railway track d. Platform Construction e. OHE Signal and Telecom work f. Construction of Station Building and allied structures	October 2025
Note	The project will be regularly monitored by Executive Engineer on day-to-day basis.	

9. We have also heard senior Advocate Mr. Desai, learned Amicus Curiae so also Ms Karnik, learned counsel for the Intervenor. The anxiety expressed by the Amicus Curiae and the Intervenor is well founded.

10. The building of the Thane Mental Hospital is old one and requires immediate attention. We accept the statement of the learned Advocate General that the Master Plan has been prepared for construction of new building of Thane Mental Hospital. It would be appropriate for the Government to come forward with specific details of the time within which the construction would commence and the allocation of the funds for the same would be done. Same may be submitted by the next date.

11. Project for the Railway station is a public project. Public at large would be interested in the project. It also cannot be denied that the Thane city is ever growing and need for construction of the new railway station is made out in the application. It also needs to be considered that 14.83 acres of land is reserved for Railways. As such, the land reserved for a particular purpose in the development plan cannot be used for any other purpose than the purpose for which it has been reserved. The reasons for this Court to pass interim order, of

which modification is sought was encroachments made on the land of the Mental Hospital and allotment of lands by the Collector to the private societies. Said prohibitive order would continue to operate, except to the extent modified today.

12. In the light of the aforesaid discussion, we modify order dated 12/08/2015 and permit to handover 14.83 acres of land to the Thane Municipal Corporation for the purpose of development of Railway station. Save and except the above, interim orders passed by this Court would continue.

13. The State Government and the Thane Municipal Corporation shall also place on record before the next date, the time line of the commencement of construction and allocation of funds for the purpose of buildings of the Mental Hospital.

14. With these observations, Civil Application No.59 of 2019 stands disposed of.

15. Place the Public Interest Litigation on **28/04/2023**.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)