



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 CIVIL APPLICATION NO. 3419 OF 2024
IN SECOND APPEAL NO. 7 OF 2024
WITH
CIVIL APPLICATION NO. 3420 OF 2024 IN SA/7/2024

JALNA MUNICIPAL CORPORATION THROUGH ITS
ADMINISTRATOR JALNA

VERSUS

MOTILAL HIRAMAN NAGRE DIED THROUGH ITS LEGAL
REPRESENTATIVES SHAMABAI MOTILAL NAGARE

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Mr. Rajendra Deshmukh, Senior Counsel i/b. Mr. Amit
Deshpande a/w. Ms. Ashwini Sahasrabudhe – Advocate for
Applicant

Mr. Sanket Kulkarni h/f. Mr. Suvidh Kulkarni – Advocate for
Respondent Nos.1 and 2

Mr. V.S. Badakh – AGP for Respondent Nos.3 and 4, State

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 2nd May, 2024

PER COURT :

CIVIL APPLICATION NO. 3420 OF 2024

1. Heard rival submissions.
2. The applicant who is original respondent No.3 in the appeal has filed this application for permission erect D.G. House and H.T. Substation, so as to make S.T.P. operative as

per the S.T.P. Plan annexed to the application. Learned Senior Counsel by pointing out certain facts as mentioned in paragraph No.5 of this application submitted that, the public project is in danger which is to be completed as early as possible otherwise the applicant will face criminal action at the instance of N.G.T. and Central Pollution Control Board.

3. On the contrary, learned Counsel for respondent Nos.1 and 2 vide reply dated 15.04.2024 strongly resisted the application on the ground that, the applicant – Corporation has not given any specification of the land whereupon the construction work is going on. According to him, the applicant – Corporation before the learned Trial Court had given certain admissions which are mentioned in the reply and from those admissions, it can be seen that the Corporation is not having any specific plan whereupon the work of S.T.P. is going on.

4. However, it is significant to note that, vide order dated 23rd January, 2024 this Court has observed that, there appears dispute between the parties over the boundaries, therefore, present respondent Nos.1 and 2 were specifically

directed to get the Survey No.265 measured alongwith their alleged area under possession. However, no such measurement is carried out by respondent Nos.1 and 2 till today. On the contrary, they have filed another Civil Application No.3419 of 2024 for reduction or division of cost for measurement of Survey No.265 to the extent of their alleged area under possession. However, this Court cannot direct such division since it will amount to interference in the official work of concerned Department.

5. It is extremely important to note that, the applicant – Corporation has also filed on record map showing the project of S.T.P. Further, it appears that substantial work of the S.T.P. has been completed and only erection of D.G. House and H.T. Substation is remaining so as to make a S.T.P. operative. Respondent Nos.1 and 2 despite sufficient opportunity are unable to carry out the measurement as directed by this Court to ascertain their area. Under such circumstances the project of applicant – Corporation wherein interest of public at large is involved, cannot be hampered. In view of the same, the application stands allowed in terms of prayer clause 'B' and

disposed of accordingly.

6. The map annexed with the application be treated as part of this order.

7. Resultantly, the Civil Application filed by respondent Nos.1 and 2 i.e. Civil Application 3419 of 2024 stands dismissed.

[SANDIPKUMAR C. MORE]
JUDGE