

HARSHADA H. SAWANT  
(P.A.)

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

**WRIT PETITION NO.12183 OF 2024**

Aditya Surendra Pawar and Anr. .. Petitioners  
**Versus**  
Ranjit Vijaysinh Ghadge and Ors. .. Respondents

- .....  
• Mr. Dipak Shivaji Shinde, Advocate for Petitioners.

**CORAM : MILIND N. JADHAV, J.**

**DATE : SEPTEMBER 03, 2024**

**P.C.:**

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Shinde, learned Advocate for Petitioners.
- 3.** Perused the praecipe dated 03.09.2024 and the Writ Petition.
- 4.** Petitioners are Defendant Nos.1 and 2 before Trial Court. Plaintiffs seven in number are residents of Village – Ghadgewadi, Post – Phaltan, District – Satara they have filed representative suit below Order I Rule 8 of the Code of Civil Procedure, 1908 (for short ‘CPC’) on behalf of the villagers against Defendant Nos.1 and 2 seeking a declaratory relief. The declaration is to the effect that the stone crushing operation carried out by Defendant Nos.1 and 2 in the suit property alongwith quarry business should be stopped immediately in view of the public at large being effected by air pollution, noise

pollution as also the entire agricultural land in the vicinity being also affected due the quarry business of the Defendants. Such cause of action is stated in paragraph No.4 of the suit plaint.

**5.** The Plaintiffs have approached the statutory authorities who are arrayed as Defendant Nos.4 to 8 in the suit proceedings. They have filed appropriate complaints against Defendant Nos.1 and 2. However since no action has been taken by Defendant Nos.4 to 8, Plaintiffs have filed representative suit. Defendant Nos.1 and 2 filed Application under Order VII Rule 11 (d) of the CPC for rejection of suit plaint on the ground that the challenge in the said suit is barred by provisions of Section 29 of the National Green Tribunal Act, 2010 (for short '**the said Act**'). It is contended by Defendants that under Section 14 of the said Act all disputes such as disputes which are emanating from the present suit proceedings are required to be settled and decided by the National Green Tribunal. It is contended by Defendants that it is the Tribunal which shall have jurisdiction over civil cases where substantial questions relating to environment (including enforcement of any legal right relating to environment) is involved and such questions arising out of implementation of the enactments specified in Schedule I which provides for seven enactments therein shall be within the sole jurisdiction of the National Green Tribunal. The learned Trial Court has considered the Application filed by the Defendant Nos.1 and 2 and analysed the provisions of Section 14 read

with Section 29 of the said Act, as also the definitions contained in the said Act, *inter alia*, pertaining to nuisance as also tortious liability of the Defendant Nos.1 and 2.

**6.** Learned Trial Court has however concluded that provisions of Section 29 of the said Act will not be a bar on the Plaintiffs to maintain the representative suit which is filed. However, it is seen that one of the principal cause of action as stated in the suit plaint pertains to environmental hazards due to stone crushing carried out by Defendant Nos.1 and 2 in their quarry.

**7.** That apart, air pollution and noise pollution is specifically stated as a cause of action by Plaintiffs in the representative suit which is affecting the entire village community at large. The question before the Court is that on the basis of cause of action pleaded whether the provisions of Section 14 read with Section 29 of the said Act would come into play or otherwise. On the basis of the aforesaid observations and pleadings and reading of the suit plaint a *prima facie* case has been made out by Mr. Shinde for issuance of notice with respect to the impugned order dated 20.06.2024 passed below Exhibit-31 in Regular Civil Suit No.467 of 2023.

**8.** Hence, issue notice to the Respondents. Humdast permitted. In addition to Court's notice, Petitioners are directed to serve the Respondents a copy of this order and copy of the Writ Petition and

inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondents are directed to file Affidavit-in-Reply to the Writ Petition within a period of four weeks from today, if so desired. Respondents are directed to remain present themselves or either through Advocates. Rejoinder, if any, to be filed within a period of two weeks thereafter.

**9. Stand over to 15<sup>th</sup> October, 2024.**

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

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