

ITEM NO.2 Court 4 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.5036/2019

MUNICIPAL CORPORATION OF GREATER MUMBAI Appellant(s)

VERSUS

NITIN SHANKAR DESHPANDE & ORS. Respondent(s)

(With appln.(s) for IA No. 79977/2019 - STAY APPLICATION)

WITH Diary No.11356/2020 (XVII)

(With appln.(s) for IA No.92207/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.92206/2020-STAY APPLICATION and IA No.92205/2020-CONDONATION OF DELAY IN FILING APPEAL)

C.A. Nos.923-924/2021 (XVII)

(With appln.(s) for IA FOR STAY APPLICATION ON IA 93118/2021)

Date : 13-08-2021 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Ms. Aishwarya Bhati, ASG
Mr. D.L. Chidananda, Adv.
Mr. Divyansh Rathi, Adv.
Ms. Archana Pathak Dave, Adv.
Ms. Suhasini Sen, Adv.
Mr. S.K. Singhania, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Dhruv Mehta, Sr. Adv.
Mr. Ashish Wad, Adv.
Mrs. Tamali Wad, Adv.
Ms. Aruna Savla, Adv.
Mr. Harshad Pimple, Adv.
Mr. Sidharth Mahajan, Adv.
Ms. Sukriti Jaggi, Adv.
Mr. Ajeyo Sharma, Adv.
Mr. Keith Verghese, Adv.
M/s. J S Wad And Co.

For Respondent(s)

Mr. K.M. Nataraj, ASG
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Mr. Amrish Kumar, Adv.
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Ms. Aarti Krupa Kumar, Adv.
Ms. Sanjana Grace Thomas, Adv

Mr. Gurmeet Singh Makker, AOR

Mr. Mukesh Verma, Adv.
Mr. Shashank Singh, AOR

Mr. Tahir Ashraf Siddiqui, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

IA No 93118 of 2021 in Civil Appeal Nos 923-924 of 2021.

- 1 An order has been passed by the National Green Tribunal on 16 July 2021 directing the Municipal Commissioner of the Municipal Corporation of Greater Mumbai to appear in person along with his response and a compliance status in respect of each of the directions which have been issued by the Tribunal in its order dated 14 October 2020. The Municipal Commissioner has been directed to explain why coercive measures under Section 25 of the National Green Tribunal Act 2010 read with Section 51 of the CPC may not be taken to ensure compliance of the order of the Tribunal.
- 2 The NGT was apprised of the fact that notice has been issued by this court on 28 June 2021 in Civil Appeal Nos 923-924 of 2021. However, the Tribunal has taken the view that since there was no stay of its decision, the execution proceedings filed by the first respondent may proceed and hence, the above order has been passed.
- 3 Mr Mukul Rohatgi, learned senior counsel appearing on behalf of the Municipal Corporation submits that though the execution application was filed on 22 June 2021 before this Court issued notice, this court was not apprised of the fact by the first respondent, and on 16 July 2021, an order was passed by the Tribunal without notice to the Municipal Corporation. That apart, it has been submitted that even in the counter affidavit which was filed on 19 July 2021 in these proceedings, there has been no reference to the execution proceedings.

- 4 The issue which has been raised in the proceedings before the NGT is indeed serious since it relates to the discharge of untreated waste into the sea, creek and river bodies. The Municipal Corporation must, in our view, make every effort to comply with the directions of the NGT by setting up the required facilities and upgrading existing facilities. Humanity can ill afford the luxury of using water bodies as dumping grounds of municipal waste. It is absolutely no valid answer to say that the directions which have been issued by the NGT would pose budgetary implications for the Municipal Corporation, particularly when the report of the expert committee indicates quite to the contrary. The discharge of untreated sewage and waste from Mumbai is a matter of serious concern and needs to be attended to with the highest priority. The protection of the environment is a matter of universal concern. The Municipal Corporation and the Municipal Commissioner must respond to the notice which has been issued by the NGT. At the same time, recourse to coercive steps against the Municipal Commissioner is not appropriate, particularly when the official is engaged in a herculean effort to respond to the Covid 19 pandemic for protecting the residents of the metropolis. Reasonable time should be given to MCGM and the Municipal Commissioner to apprise the Tribunal of the steps taken.
- 5 We accordingly direct that within a period of two weeks from today, the Municipal Commissioner shall file an affidavit before the NGT categorically indicating the steps which have been taken to comply with the directions of the NGT, particularly in regard to ensuring compliance with the requisite standards for the discharge of effluents including municipal waste and sewage. The affidavit shall set down a concrete plan of action for the future. NGT may consider the affidavit and the steps which have been taken to ensure compliance.
- 6 Pending further orders, however, no coercive steps shall be taken against the Municipal Commissioner or the Municipal Corporation in pursuance of

paragraph 7 of the order dated 16 July 2021. In the event that the Municipal Corporation does not make a good faith effort to place before the NGT a full schedule of steps taken and those which are proposed to be taken, we may be constrained to vacate the stay on the direction in paragraph 7 on the next date of listing.

- 7 The above directions should not be interpreted as a carte blanche to the Municipal Corporation to continue to violate the prescribed pollution control norms in the interregnum and all steps shall be taken in the meantime to ensure compliance.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
COURT MASTER