

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION (WRIT PETITION) LODGING NO. 319 OF 2017

In

PUBLIC INTEREST LITIGATION 87 OF 2006

The Bombay Environment Action Group AndPetitioner
Anr

V/S

State Of Maharashtra And 19 Ors And MumbaiRespondent
Metro Rail Corporation Ltd (applicant)

Ms. Gulnar Mistry a/w Ms. Shreya Parikh i/b Jayakar for
Petitioner in PIL/87/2006

Ms. Kiran Bagalia for Applicant in NMWL/319/2017

Mr. Robin Jaisinghani i/b Jacinta D'silva for
Applicant/Intervenor

Ms. Geeta Joglekar for BMC/Respondent

Mr. Rui Rodrigues a/w Mr. N. R. Prajapati and Mr. Upendra
Lokegaonkar for Respondent No.1/Union of India

Ms. Sharmila Deshmukh for Respondent No.3

**CORAM : V.M. KANADE &
A.M. BADAR, JJ**

DATE : 8th June, 2017

P.C. :

To be Heard alongwith Notice of motion and Chamber
Summons and stand over to 13th June 2017 on supplementary
board.

(ASSOCIATE)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTION OF MOTION NO.319 OF 2017

IN

PUBLIC INTEREST LITIGATION NO.87 OF 2006

Mumbai Metro Rail Corporation Ltd. ... **Applicant**

In the Matter Between

The Bombay Environment
Action Group & Anr. .. **Petitioners.**

V/s.

The State of Maharashtra & Ors. ... **Respondents**

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Ms.Kiran Bhagalia, Advocate for the Applicant in
NMWL/319/2017.

Mr.Navroz Seervai, Senior Counsel with Ms.Gulnar Mistry with
Shreya Parikh i/b. Jayakars for the Petitioners in PIL No.87/2016.

Ms.Geeta Joglekar, Advocate for the Respondent/BMC.

Mr.Rui Rodrigues with N.R.Prajapati with Upendra Lokegaonkar,
Advocate for the Respondent No.2/UOI.

Ms.Sharmila Deshmukh, Advocate for the Respondent No.3.

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**CORAM : V. M. KANADE &
M.S.SONAK JJ.**

DATED : 13th June 2017.

P.C.

1 Heard Ms.Kiran Bhagalia, the learned counsel appearing on behalf of Metro Rail Corporation Limited and Shri.Seervai, the learned Senior counsel appearing on behalf of the original Petitioners in PIL No.87 of 2006. This Motion is taken out by MMRCL seeking leave of this Court for construction of Dharavi Metro Station on CTS NO.330 and 551 village Dharavi, Mumbai and Bandra Kurla Complex Metro Station partly at Survey No.4 CTS No.8 at village Parigachi Khadi and partly at CTS No.629 of village Bandra (East). It is submitted that pursuant to the directions given by Division Bench of this Court headed by J.N.Patel J. in its order dated 27th January 2010, the applicant has filed this Motion seeking leave to carry out the said construction.

2 Division Bench of this Court headed by Bhandari C.J. in PIL No.87 of 2016 has passed a detailed order giving directions for the purpose of saving mangroves and prohibiting cutting of mangroves throughout the State of Maharashtra. An application, however, thereafter was filed in 2010 by certain Corporations and State Authorities mentioning therein that Public Utility Project may be exempted from taking permission. This Court, however, imposed condition that before starting construction in respect of any Public Utility Project, the said Authority or Corporation or the Government of India shall obtain leave of the Court after satisfying the Court that they had taken permission from all authorities and

had also taken steps and given an assurance to replant those trees either on the same place or at some other place approved by the Forest Department.

3 Ms.Kiran Bhagalia, the learned counsel appearing on behalf of MMRCL has drawn our attention to affidavit in support filed in Notice of Motion. It is submitted that on oath it is stated that permission from all relevant authorities including CRZ and other concerned authorities have been obtained. She has also filed undertaking dated 9th May 2017 on behalf of respondent No.2. It is stated in the undertaking that the stations in Metro Line – III are going to be underground “with only certain structure for access, ventilation and miscellaneous allied services being above ground”. It is further stated that “this would entail cutting/removal of trees, however, on completion of station construction 90% to 95% area affected will be restored as a level vacant area and only 5% to 10% of the area will be utilized for access, ventilation and other services”. Further undertaking is given that MMRCL will ensure that trees equivalent to the number of trees affected will be planted in the said area on completion of station construction work. A further undertaking is given that trees of adequate girth of about 18 inches to 24 inches are made available and planted in the said affected area. Further undertaking is given that for a period of three years, the trees would be looked after, safeguarded and maintained and that there is no loss of tree cover in all those areas affected by station construction.

4 In paragraph 2 of the said undertaking it is stated that MMRCL will plant an equal number of trees in each of the areas affected by such station construction. The undertaking given on behalf of MMRCL is accepted.

5 Shri. Seervai, the learned Senior Counsel appearing on behalf of Bombay Environment Action Group submitted that in principle they have no objection in the work being carried out and for the removal of trees subject to the undertaking given by them to replant the trees and also subject to the permission obtained from the concerned authorities. Needless to state that liberty is given to the respondent to agitate non-compliance of the undertaking given to this Court and non-compliance of the conditions of permission given by various authorities before the appropriate Forum.

6 Notice of Motion is allowed in terms of prayer clause (a) in the aforesaid terms and disposed of.

7 Intervention application does not survive and it is disposed of.

(M.S.SONAK J.)

(V. M. KANADE J.)