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

PUBLIC INTEREST LITIGATION (L) NO.2169 OF 2023

Zoru Darayus Bhathena Petitioner

Vs.

Tree Authority MCGM Mumbai Respondents

Mr.Zaman Ali i/b Ms.Pushpa Thapa for the Petitioner

Mr.Aspi Chinoy, Senior Advocate a/w Mr.Joel Carlos and Ms.Oorja
Dhond i/b Mr.S.K.Sonawane for the Respondent no.1 - BMC

Mr.Ashutosh Kumbhakoni, Senior Advocate i/b Mr.Akshay Shinde
for Respondent no.2

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

DATED : MARCH 9, 2023

P.C.

1 We have heard Mr.Zaman Ali, the learned Counsel for the
Petitioner and Mr.Chinoy and Mr.Kumbhakoni, the learned Senior
Advocates for the Respondents.

2 The Petitioner assails the public notice dated 12.01.2023
issued by the Tree Authority.

3 The contention of the learned Counsel for the Petitioner is that
the Respondents had filed Interim Application No.169860 of 2022 in
Suo Moto Writ (Civil) No.2 of 2019 before the Hon'ble Apex Court

and the Apex Court only permitted the Respondents to cut 84 trees. Now the public notice is issued by the Tree Authority inviting objections on the application of the Respondents for cutting 171 trees. According to the learned counsel, the Respondents cannot be permitted to cut 171 trees. The Apex Court had only permitted the Respondents to apply for permission to fell 84 trees.

4 According to the Respondents, the trees are only 84 in number and the remaining are the shrubs which have grown in 3 to 4 years and they have become wide trees. In an Interim Application filed by MMRCL in Suo Moto Writ Petition before the Apex Court, the Apex Court has passed the following order:

“22. Moreover, it must also be noted that a substantial number of trees pertaining to the area which falls within the segment of the car shed and the ramp have already been felled. Consequently, this Court was apprised on 7 October 2019 and 5 August 2022 that no further trees were required to be felled. As already noted earlier, 2144 trees were felled in executing the work pertaining to car depot, while, 212 trees were felled in connection with the work of the ramp. What is now sought is permission to apply to the Tree Authority for the felling of 84 trees pertaining to the ramp. It needs no emphasis that without a ramp the work which has already been completed would be of no consequence and would be wholly ineffective. Hence, having due regard to the above circumstances, we have arrived at the conclusion that MMRCL should be permitted to pursue its application before the Tree Authority for the permission to fell 84 trees for the purpose of the ramp. We clarify that the Tree Authority would be at liberty to take an

independent decision on the application and determine what conditions, if any, should be imposed if it decides to grant its permission.

23. The order of this Court, which has the effect of directing the preservation of status quo on the felling of trees, shall accordingly stand modified to the above extent thereby permitting the MMRCL to move the Tree Authority on its application for felling of 84 trees. The state government would be at liberty to proceed further.”

5 Public Notice has been issued by the Tree Authority. The Petitioner has already raised objection before the Tree Authority. The Petitioner can bring it to the notice of the Tree Authority, the order of the Apex Court. No final order has been passed by the Tree Authority. It is for the Tree Authority to consider whether those trees beyond 84 were shrubs or otherwise.

6 The Apex Court is already seized with the matter. It is for the parties to take appropriate steps.

7 In light of the above, the Public Interest Litigation is disposed of. It is made clear that we have not considered the contentions of either of the parties on merits.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)