

**BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE  
BENCH, PUNE**

MA No.125/2014  
M/s. Omkar Realtors & Developers Pvt. Ltd  
In  
Appeal No.14/2014  
Sanotsh Daundkar Vs. Secretary, MoEF, New Delhi & Ors.  
AND  
Appeal No.14/2014  
Sanotsh Daundkar Vs. Secretary, MoEF, New Delhi & Ors.

**CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER  
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

**Present:** Applicant/Appellant : Mr. Aditya Pratap Adv.  
Respondent No.1 : Mr. Krishan Ratnaparkhi Adv.  
Respondent No.6 : Supriya Dangore Adv.  
Respondent No.8 : Shewta Busar Adv.  
Respondent No.10 : Mr. Shyam Mehta Sr. Counsel with  
Mr. Chirag Balsara

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 5,9 3<sup>rd</sup> December, 2015 Order No.14</b>	Heard the learned Advocates for the parties. Advocate Shewta Bhusar for NBWL has filed affidavit of Mr. Vinod Saxena, Additional Director General (Wildlife) and Member Secretary, Standing Committee of National Board for Wild Life, in order to verify issue regarding issuance of OM dated December 19 <sup>th</sup> , 2009. She states that the decision for referring the case requiring environmental clearance located within 10 kms National Park and Wild Life Sanctuary has been taken as part of the process of environmental clearance in the Ministry. The fact is indicated in the OM dated December 2 <sup>nd</sup> , 2009 but it is only indicative guidelines. She submits that all the matters related to environmental clearance, the National Board of Wild Life have no bearing on the process except for the fact that the matter is placed before the Standing Committee of National Board for Wild Life, only when the proposal detailed in Annexure A-5 is received through the State Board of Wild Life Thus, stand of NBWL that there are two different procedures involved in the matter . one the process requiring certain procedure be applied for grant of EC and another requiring consideration of project before the Standing Committee of NBWL. It is further submitted that the criteria in some cases likely to be diluted where already structures are standing near the National Park/Sanctuary vis-a-vis the factual status of area in question. The learned Advocate Mr. Aditya Pratap takes strong exception to the submission of the NBWL and NBWL's stand and

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**2015**  
**Order No.14**

states that criteria cannot be diluted as predominance needs to be given to environment than projects with distance and nature of the activity. At this juncture whatever proposal routed through the competent authority of the State of Maharashtra cannot be commented either way till it would be independently considered by the NBWL on its own merits. We hope that there will be independent consideration of such proposal after examining the settled legal position as stated in Goa Foundation and Okhla Birds Sanctuary cases and subsequent judgments. If required, NBWL may take opinion of the learned Attorney General and/ Solicitor General or the Senior Counsel of MoEF to clarify the legal position. In any case, the distance-wise and project-wise criteria in our opinion cannot be changed without proper rationals and proper fundamental process which can be applied on the basis of ecological and environmental location/situation and other relevant factors. By way of abundant precaution as an ad interim relief we direct that no further construction permission shall be granted to any new project in area until the proposal forwarded by State of Maharashtra is duly notified by MoEF/NBWL with respect to the distance from the protected area/National Park, atleast to keep the status quo. So far as the present project is concerned, the previous order dated February 2<sup>nd</sup>, 2015 to inform the prospective buyers about the pendency of the litigation in this Tribunal be abided by scrupulously.

In the meanwhile, reply affidavit may be filed by Mr. Aditya Pratap alongwith rejoinder to which response can be given to project proponent which shall be exchanged among themselves without fail before the scheduled date.

**Stand over to 5<sup>th</sup> January, 2016.**

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**(Justice V. R. Kingaonkar)**

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**(Dr.Ajay A. Deshpande)**

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