

HIGH COURT, BOMBAY

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 732 OF 2016

M/s. Suncity Corporation & Anr. ... Applicants
vs.
Maharashtra Pollution Control Board & Anr. ... Respondents

WITH
CRIMINAL APPLICATION NO. 733 OF 2016

Manoj Daisaria ... Applicant
vs.
Maharashtra Pollution Control Board & Ors. ... Respondents

Mr. Robin Jaisinghani a/w. Mr. Harshil Parekh i/b. M/s. Purnanand & Co. for the Applicants.

Ms. Rupali Dixit for Respondent no.1

Ms. P. N. Dabolkar, APP for the State.

CORAM : A. K. MENON, J.

DATE : 26th JULY, 2017

P.C.:

1. By these applications the applicant's challenges identical orders dated 10th March, 2015 issuing process against the petitioners under Section 15 of Environment (Protection) Act, 1986 r/w. Environment Impact Assessment Notification 2006 dated 14th September, 2006 which required any development or construction project in excess of 20000 sq.mtrs to obtain clearance under the said Environment Impact Assessment Notification dated 14th September, 2006, copy of which is at Exhibit "C".

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2. It is common ground that a division bench of this court has in WP(L) 2305 of 2013 and WP(L) NO. 655 OF 2014 passed an order permitting construction upto 20000 sq.mtrs without obtaining environment clearance. Mr. Parekh, learned Counsel for the petitioner has tendered a copy of the order dated 18th December, 2013 passed in the aforesaid Writ Petition. The Writ Petition was disposed of. In paragraph 6 of the said order the Court noted that there was no impediment in granting any interim relief permitting the petitioner therein to carry out construction upto 20000 sq.mtrs without obtaining environment clearance.

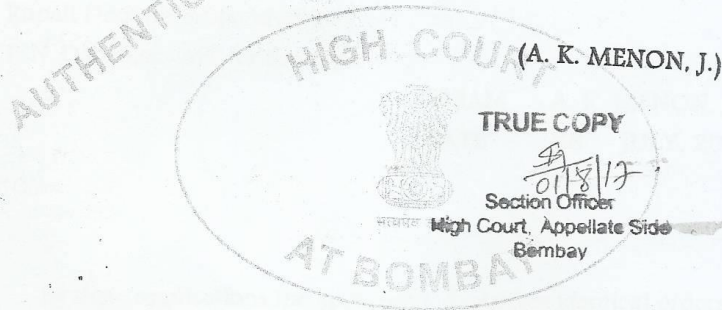
3. It is not in dispute today that the aforesaid order dated 18th December, 2013 has not been challenged by the Board or any other respondent. The Writ Petition was finally disposed of by the said order. Process was issued on 10th March, 2015 well after the order dated 18th December, 2013 was passed and therefore process could not have been issued and probably may not have been issued if the Order of this Court was brought to the attention of the Ld. Magistrate. For these reasons the impugned orders must be set aside. Furthermore it is stated on behalf of the applicant that sanction has subsequently been obtained in respect of entire project from the said Environment Impact Assessment Authority on 12th January, 2016. Copy of sanction appears at Exhibit "E" to this application.

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4. In view of the fact that the commencement of construction upto 20000 sq.mtrs was not objectionable, in view of the order dated 18th December, 2013 and in view of the fact that subsequently permission has been granted for the entire project, there is no justification in sustaining the impugned order. Hence, I pass the following order. -

- (i) Applications are allowed in terms of prayer clause (a)
- (ii) Regular Criminal Case No. 261/SS/2015 before the 53rd Court Mulund and the common impugned order dated 10th March, 2015 are quashed and set aside.
- (iii) No order as to costs.



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