

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

WRIT PETITION NO. 2741 OF 2017

Rajhans Estates and others. ... Petitioners.
V/s.
Union of India and others. ... Respondents.

Mr.Saket Mone a/w Mr.Subit Chakrabarti a/w Mr.Vishesh Kalra
and Ms.Neha Joshi i/b Vidhi Partners for the petitioners.

Ms.Sharmila Deshmukh for the respondent No.5.

Mr.S.B.Gore, AGP for the Respondent – State.

CORAM : A.S. OKA AND RIYAZ I. CHAGLA, JJ.

DATE ON WHICH SUBMISSIONS ARE HEARD : 27th March 2018

DATE ON WHICH JUDGMENT IS PRONOUNCED : 17th September 2018.

JUDGMENT : (PER A.S. OKA, J.)

By this petition under Article 226 of the Constitution of India, the challenge is to a letter dated 17th March 2017 issued by the Maharashtra Coastal Zone Management Authority (for short “MCZMA”). The petitioners were intending to construct a building on a plot No.170 bearing City Survey No.1042 of village- Pahadi Goregaon of Mumbai Suburban District. The proposal was kept before 115th meeting of MCZMA held on 17th and 18th January 2017. The proposal was placed before MCZMA as the Mumbai Municipal Corporation insisted that recommendation be obtained from MCZMA. By relying upon the orders

dated 6th October 2005 and 27th January 2010 passed in PIL No.87/2006, MCZMA held that the plot falls in mangroves buffer zone and from the West side, the plot is on the seaward side of the CRZ-II area. By the impugned communication dated 17th March 2017, the said decision of MCZMA was communicated to the petitioners.

2. We must note here that the petitioners' submission is that the order dated 6th October 2005 which contains interim directions in PIL No.87/2006 is not applicable to the property in question in view of notification dated 19th January 2000 as well as the judgment and order dated 29th January 2015 passed in the said PIL.

3. Today, by a separate judgment and order, PIL No.87/2006 has been finally disposed of. The judgment and order dated 29th January 2015 passed during the pendency of the PIL has also been dealt with and interpreted in the said judgment.

4. Therefore, it would be appropriate if MCZMA reconsiders its decision taken in the meeting held on 17th and 18th January 2017 in the light of the final judgment delivered today in PIL No.87/2006.

5. Accordingly, we pass the following order:

- (i) The decision dated 17th and 18th January 2017 (page-178 of the petition) and the communication dated 17th March 2017 (page-179 of the petition) are hereby set aside;

- (ii) We direct MCZMA to consider the proposal of the petitioners afresh in the light of the judgment and order passed today in PIL No.87/2006. The proposal shall be reconsidered and appropriate decision shall be taken within a period of three months from today;
- (iii) Rule is made absolute in the above terms.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)