

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
CONTEMPT PETITION NO. 1 OF 2015**

**IN**

**PUBLIC INTEREST LITIGATION NO. 87 OF 2013**

Dayanand Stalin ...Petitioner  
Versus  
Ashok Lavasa & Ors. ...Respondents

**WITH**

**PUBLIC INTEREST LITIGATION NO. 87 OF 2013**

Vanashakti Public Trust & Ors. ...Petitioner  
Versus  
Union of India & Ors. ...Respondents

**WITH**

**CHAMBER SUMMONS (LODGING) NO. 185 OF 2014**

**IN**

**PUBLIC INTEREST LITIGATION NO. 87 OF 2013**

Yeshwanth Shenoy ...Applicant

**IN THE MATTER BETWEEN**

Vanashakti Public Trust & Ors. ...Petitioner  
Versus  
Union of India & Ors. ...Respondents

**WITH**

**NOTICE OF MOTION NO. 518 OF 2015**

**IN**

**PUBLIC INTEREST LITIGATION NO. 87 OF 2013**

The State of Maharashtra ...Applicant

**IN THE MATTER BETWEEN**

Vanashakti Public Trust & Ors. ...Petitioner  
Versus  
Union of India & Ors. ...Respondents

**WITH**

**NOTICE OF MOTION (LODGING) NO. 740 OF 2015  
IN  
PUBLIC INTEREST LITIGATION NO. 87 OF 2013**

Narendra Krishna Mhatre & Anr. ...Applicant

**IN THE MATTER BETWEEN**

Vanashakti Public Trust & Ors. ...Petitioner

Versus

Union of India & Ors. ...Respondents

**WITH  
CHAMBER SUMMONS (LODGING) NO. 37 OF 2016 (NOT ON BOARD)  
IN  
PUBLIC INTEREST LITIGATION NO. 87 OF 2013**

City and Industrial Development Corporation ...Applicant

**IN THE MATTER BETWEEN**

Vanashakti Public Trust & Ors. ...Petitioner

Versus

Union of India & Ors. ...Respondents

Mr. Zaman Ali I/b Ms. Gayatri Singh for the Petitioner

Mr. Y. R. Mishra with Mr. D. A. Dube for the Respondent No. 1

Mr. G. W. Mattos, A.G.P for the Respondent-State

Ms. Trupti Puranik for the Respondent-BMC

Mr. N. R. Bubna for the Respondent No. 4

Ms. Rupali Dixit I/b Ms. Sharmila Deshmukh for the Respondent No. 5

Mr. Sandeep Aole with Mr. Subit Chakraborty with Mr. Vishesh Kalra I/b Vidhi Partners for the Respondent No. 6

Mr. M. S. Karnik for the Intervener in NML/740/2015

Ms. P. M. Bhansali with Mr. G. S. Hegde for the Intervener-CIDCO

Mr. Amit Bhawe with Mr. Vinod Sakpal I/b Milan Bhise & Co. for the Intervener-JNPT

Mr. G. S. Hegde with Mr. P. H. Bhansali for the Intervener-CIDCO

Ms. Pooja Singh I/b Mr. N. R. Bubna for the Respondent Nos. 4 and 6

**CORAM : V. M. KANADE &**  
**REVATI MOHITE DERE, JJ.**  
**FRIDAY, 29TH JANUARY, 2016**

**P.C. :**

1. The original petitioner shall add CIDCO as party-respondent. The draft Chamber Summons filed by CIDCO being Chamber Summons (Lodging) No. 37 of 2016 is taken on record and is allowed. The original petitioner to add CIDCO as party-respondent within one week. Leave to amend is accordingly granted. Copy of the petition and other proceedings be served on CIDCO. CIDCO is permitted to file a separate Chamber Summons.

2. The grievance of the petitioner is that though orders have been passed from time to time in this PIL, various authorities have not taken any action against the rampant reclamation of Wetlands and illegal construction on Wetlands. The second grievance of the petitioner is that unauthorised constructions have come up after destruction of mangroves and reclamation thereafter on wetlands. He has invited our attention to photographs of certain portions. He has also invited our attention to various orders passed by this Court from time to time, which orders are annexed to this contempt petition.

3. By our order dated 14<sup>th</sup> October, 2013, we had directed the Secretary, Department of Environment and the Secretary of the Forest Department to take a decision whether they propose to adopt the Wetland Atlas

prepared by the Central Government or whether the State Government wanted to prepare their own brief document in respect of Wetland Atlas for the State of Maharashtra. We had also given a direction that in respect of areas which have been identified as Wetland Areas in the Wetland Atlas of the Central Government, there should be no reclamation of land and any kind of construction was not permitted without seeking leave of this Court. In view of this direction, the State of Maharashtra issued a directive under Section 154(1) of the Maharashtra Regional and Town Planning Act, directing the Municipal Corporation, Municipal Council, Nagar Panchayat, Zilla Parishad and all or Planning Authority that they shall not permit reclamation of land and any kind of construction in respect of the areas identified as Wetland areas in the Wetland Atlas prepared by the Central Government, without the permission of this Court. Thereafter, by order dated 31<sup>st</sup> January, 2014, the list of locations on which reclamation and destruction of mangroves was being carried out, was handed over to the Directorate General of Police with further direction to take prompt action against those who are responsible for destroying the mangroves. Then by our order dated 19<sup>th</sup> March, 2014, we had given further directions to the State Government. The same reads thus :

*“Hereinafter no permission should be granted for destruction and reclamation of wetlands and prompt action including lodging of FIR/complaint be taken.”*

We had further directed that the action should be taken by the Collector and also by the Regional Officers of the State Pollution Control Board. Similar orders were passed on 16<sup>th</sup> April, 2014. Thereafter, on 21<sup>st</sup> August, 2014, we were informed that the brief document as contemplated under Rule 6(2) of the Wetlands (Conservation and Management) Rules, 2010, would be prepared by the State of Maharashtra within a period of one year. Thereafter, on 18<sup>th</sup> February, 2015, we had directed the Central Government to take appropriate instructions regarding the precautions which will be taken by the Central Government to prevent misuse of wetlands owned and possessed by the Central Government.

4. The grievance of the petitioner is that despite several orders being passed by this Court from time to time, several unauthorised constructions have come up in areas which are specified in Clauses (a) to (k) of paragraph 13. Learned Counsel appearing on behalf of the petitioner has shown certain photographs of destruction of mangroves and reclamation of wetlands near Dahisar. He has submitted that despite an order of this Court that Civil Courts should not take any decision, several persons who had constructed illegal structures on these wetlands had approached the Civil Court and had obtained

stay from the City Civil Court to the notices which were issued by the Municipal Corporation.

5. We are satisfied *prima facie* that despite the directions given by this Court from time to time, several structures have come up at various places by destructing mangroves and wetlands. The Corporation shall bring to the notice of the City Civil Court at Dindoshi, the orders passed by this Court, so that, further Suits with respect to unauthorised and illegal constructions on the wetlands are not entertained by them, since we have indicated that these persons can approach this Court in the pending PIL and seek appropriate orders.

6. The City Civil Court, Dindhosi shall dispose of the Notice of Motion filed by the owner/occupier of these illegal structures, on merits and in accordance with law, within four weeks.

7. Copy of the various orders passed by this Court in PIL including today's order be placed before the Principal Judge, City Civil and Sessions Court, so that, appropriate directions can be given.

8. The Deputy Commissioner of Police, Mumbai City shall file an affidavit-in-reply with regard to Zone 11 i.e. Borivali Division and Zone 12

i.e. Dahisar Division, stating therein the action taken by the authorities in filing FIRs/charge-sheet referred to against the accused.

9. Stand over to 26<sup>th</sup> February, 2016.

10. Notice of Motion (Lodging) No. 740 of 2015 to be placed on the supplementary board on 2<sup>nd</sup> February, 2016.

11. All concerned to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**

**V. M. KANADE, J.**