

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 84 OF 2015

In the matter of Articles 226, 14, & 21
of the Constitution of India:

And

Maharashtra Regional and Town
Planning Act, 1966

And

Notification dated 4th march, 2014
insofar as it purports to permit the
installation of admittedly Hazardous
Mobile Towers on lands reserved in
the DP for Play Grounds, Recreation
Grounds, Gardens & Parks

Nagar (NGO Alliance for Governance & Renewal)
Trust & Ors.

.. Petitioners

V/s

State of Maharashtra & Anr.

.. Respondents

INDEX

<u>Sr. No.</u>	<u>Particulars</u>	<u>Pg. Nos.</u>
A.	Proforma	I - III
B.	Synopsis	A - B
1.	Writ Petition	1 - 19
2.	Vakalatnama	20 - 23
3.	Memorandum of Registered Address	24
4.	List of Documents	25

5.	Exhibit "A" Copy of the Impugned Notification issued by Respondent No. 1 dated 4 th March, 2014	26 – 36
6.	Exhibit "B" Copy of the final list of 1160 locations	37 – 72
7.	Exhibit "C" Copy of letter dated 21 st October, 2013	73 – 75
8.	Exhibit "D" Copy of draft notification	76 – 83
9.	Exhibit "E" Copy of letter of the Joint Director, Town Planning, Konkan Division, Navi Mumbai dated in 31 st January, 2014	84 – 91
10.	Exhibit "F" Copy of Annexure 'A' to the letter dated 31 st January, 2014 containing the suggestions of the authority	92 – 128
11.	Exhibit "G" Copy of Guidelines of Ministry of Urban Affairs, Govt. of India	129 – 138
12.	Affidavit in Support of the Petition	139 – 140
13.	Advocates' Certificate	141

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the DP for Play Grounds, Recreation
Grounds, Gardens & Parks

1. Nagar (NGO Alliance for Governance &)
Renewal) Trust, A Public Charitable Trust)
registered under the Bombay Public Trust Act,)
1950, bearing Registration No. F-26453)
(Mumbai) and having its office at Cecil Court,)
3rd Floor, Mahakavi Bhushan Marg, Colaba,)
Mumbai - 400 005)
2. Gerson da Cunha)
Of Mumbai Indian Inhabitant, Trustee of)
Nagar Trust, having his address at 10)
Fairlawn, 128 Maharshi Karve Road,)
Churchgate, Mumbai - 400 020)
3. Dinesh Ahir)
Of Mumbai Indian Inhabitant, Trustee of)
Nagar Trust, having his address at 1305,)

- Landmark Tower, A- Wing, G. D. Ambekar)
 Marg, Naigaon Opp. Tel. Exchange, Dadar)
 (East), Mumbai - 400 014)
4. Agni Trust)
 A Public Charitable Trust registered under)
 the Bombay Public Trust Act 1950)
 bearing Registration No. E-18160 (Mumbai))
 and having its office at Chadha Building, 1st)
 Floor, Plot 95, Wadala Mumbai - 400 031)
5. D. M. Sukthankar)
 Of Mumbai Indian Inhabitant, Managing)
 Trustee of Agni Trust, having his address at)
 Priya", 5th Floor, 9, Khan Abdul Gaffar Khan)
 Road, Worli Seaface, Mumbai - 400 030)
6. Organization for Verdant Ambience and Land)
 Trust (OVAL Trust))
 registered under the Registration No. E-)
 18160 (Mumbai).)
 A Public Charitable Trust registered under the)
 Bombay Public Trust Act 1950 and having its)
 office at 10, Court View, 126. M. Karve Road,)
 Churchgate, Mumbai 400 020)
7. Shirin Bharucha)
 Of Mumbai Indian Inhabitant, Managing)
 Trustee of OVAL Trust having her address at)
 10, Court View, 126. M. Karve Road,)
 Churchgate, Mumbai 400 020)
8. Ashad Mehta)
 Of Mumbai Indian Inhabitant, Managing)
 Trustee of OVAL Trust having his address at)
 Empress Court, 140. M. Karve Road,)
 Churchgate, Mumbai 400 020)
- .. Petitioners

Versus

1. State of Maharashtra acting through the Urban Development Department and the department of Environment and Forests having its office at Mantralaya, Mumbai)
2. The Municipal Corporation of Greater Mumbai a Body Corporate incorporated under the provisions of the Mumbai Municipal Corporation Act, 1888 and having its office at Mahapalika Marg, Opposite C. S. T. Station, Mumbai 400 001) .. Respondents

TO.

THE HON'BLE THE CHIEF JUSTICE
AND HIS HON'BLE COMPANION
JUDGES OF THE HON'BLE HIGH
COURT OF JUDICATURE AT BOMBAY

THE HUMBLE PETITION OF THE
PETITIONERS ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. Parties

(a) Petitioner No. 1 is a registered public charitable trust. Petitioner Nos. 2 and 3 are trustees of Petitioner No. 1 and are residents of Mumbai. Petitioner No. 1 is a non-profit organization established in 2000, with a goal to improve life in the city of Mumbai. It works in the areas of preservation of public open spaces, solid waste management, improvement in air quality, preservation of beaches, mangroves, heritage places, efficient road space management, water conservation and better policing. It

87

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is formed with the objective of ensuring strong and consistent advocacy with Government and its agencies for better implementation of existing laws, suggesting changes in policies for better governance in civic related issues and working towards urban renewal. It has a vast citizen base spread over the city and networks with other civic NGOs on specific issues. Petitioner No. 1 is a petitioner in two public interest litigations before this Hon'ble Court- one on the zoning of street vendors in Greater Mumbai, and the second in challenging the State Government's policy of rehabilitating slums on reserved public open spaces.

(b) Petitioner No. 4 is a Trust with the object of promoting co-operation between citizens and civic/government authorities to improve the management of the city of Mumbai. Petitioner No.4 has been involved with facilitating interaction of the public with civic authorities, the police etc. Petitioner No. 4 was a petitioner in a Public Interest Litigation that successfully challenged the indiscriminate calling of bandhs in the city. A Trustee of Petitioner No. 4 has been appointed on a committee constituted by this Hon'ble Court to report road conditions and make recommendations on their proper upkeep. Petitioner No. 5 is a trustee of Petitioner No. 4 and a former Municipal Commissioner of Mumbai.

(c) Petitioner No. 6 is a registered public charitable trust whose objectives involve ensuring the preservation and upkeep of recreation grounds and gardens. In particular Petitioner No. 6 is concerned with the upkeep of the Oval Maidan and Cross Maidan. Petitioner No. 6 is responsible for the restoration, and day to day maintenance of the above-mentioned Maidans including gardeners, security staff, water, power, materials, equipment, repairs etc., which is conducted from funds collected by Petitioner No. 6 from private sources. The impugned notification will

directly and adversely affect the said Maidans that are under the maintenance of the said Petitioner, amongst various other open spaces in the city. Petitioner Nos. 7 and 8 are Trustees of Petitioner No. 6 and are also residents of the area surrounding the Oval Maidan.

2. Respondent No. 1 is the State of Maharashtra who has issued a notification under the Maharashtra Regional and Town Planning Act, 1966 ("**MRTP Act**") permitting the installation of TCS/BS Towers ("**mobile towers**") on lands/ areas reserved in the Development Plan for non-buildable reservations such as Recreation Grounds, Play Grounds, Parks & Gardens. Respondent No. 2 is the Municipal Corporation of Greater Mumbai, who controls/owns most public gardens/playgrounds in the city of Mumbai & is also the Planning Authority for Greater Mumbai.

3. Issues

The present petition challenges the notification issued by Respondent No. 1 dated 4th March, 2014 under Section 37(1AA) of the MRTP Act ("**the impugned notification**") which purports to permit the construction of mobile towers on non-buildable reservations such as public open spaces such as Recreations Grounds (RG), Playgrounds (PG), Parks (P) and Gardens(G). A copy of the impugned notification is attached hereto at Exhibit 'A'. The impugned notification impinges on the right to life of the Petitioners under Article 21 of the Constitution of India by denying them the use and enjoyment of open spaces and gardens. The impugned notification is ex facie arbitrary, violates Article 14 of the Constitution of India, and is *ultra-vires* the MRTP Act. Furthermore, the impugned notification has been issued contrary to the procedure/ requirements of Section 37(1AA)(a) of the MRTP Act and is accordingly illegal and *ultra vires*.

6

4. Under the MRTP Act and the notifications issued thereunder prior to 11th March 2014, the user of areas reserved under the Development Plan, for non-buildable reservations such as recreation grounds/ playgrounds/parks/gardens have been limited only for such designated/ reserved use & to a stipulated & very limited extent for use for ancillary purposes. Therefore, under the Act & regulations/ rules, mobile towers could not have been installed on non-buildable reservations such as gardens, playgrounds etc. In fact till the impugned notification, Mobile Towers have been installed in the city of Mumbai without encroaching on open spaces such as gardens and playgrounds.

5. Facts

On 18th June, 2013 and 17th June 2013, a private mobile telecom operator, wrote to the MCGM requesting permission for lease of land belonging to Respondent No. 2 in certain non-buildable reservations including recreation grounds/ playgrounds/ parks/ gardens, open spaces, parking lots etc. for installation of 4G mobile network towers. By a further letter dated 25th June, 2013, the said operator requested for the installation of Mobile towers at 945 sites, most of which are in gardens and open spaces. This list/request was subsequently increased on 14th August 2014 to 1150 locations. A copy of the final list of 1160 locations is attached hereto as Exhibit 'B'. The Petitioner craves leave to rely on the above-mentioned letters as and when produced.

6. In dealing with the said request, the Chief Engineer (DP) of Respondent No. 2 by his letter dated 21st October, 2013, stated that: *"Besides, erection of a Mast as envisaged would not be covered under ancillary structures to open spaces of RG/PG. The matter regarding allowing such a mast in open space reservations would not be permissible as per DC regulations."*

7. The Chief Engineer (DP) of Respondent No.2 had issued an internal appraisal of the abovementioned proposal dated 13th November 2013. The relevant observations in the file are as under:

"3) The draft policy guidelines are also prepared by MCGM and the same are approved by Hon. M.C. under No. MCP/2059 dt. 16.09.2013.

4) The said draft policy guidelines prepared by MCGM are submitted to Principal Secretary, UDD for consideration in response to the notice published by the Govt. for suggestions/objections from the public as stated above.

5) In the said draft policy guidelines published by the Govt. the provision for Base Stations (BS)/Ground Based Transceiver Station (BTS) is already included.

6) As per the Sr.No.6 of Draft Policy Guidelines, installation of TCS/Base Stations are not to be provided on land shown under any reservation in the concerned DP or RP.

4) These reservations are meant for public purpose. It is therefore felt undesirable to allow such telecommunication tower/base stations etc. on RG/PG plots as like in the premises such as School, Hospitals etc.

5) Besides, erection of MAST as envisaged would not be covered under ancillary structures to open space reservations would not be permissible under DCR 1991

10) ...Here it is to state that several meetings are conducted with citizen group's representatives, Corporators, and they are strongly resisting the use of Mobile Towers/Base stations etc. in public premises such as Hospitals, Schools etc. and its nearby place. As such there is a possibility of resistance for allowing

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MAST in RG/PG plot too. Further, once such Mast is considered in public places, then all mobile service providers may also request for providing their tower/antenna in R.G/P.G etc".

A copy of the said letter is attached hereto collectively as Exhibit 'C'.

8. On 3rd October, 2013, Respondent No. 1 had published a notice in the Govt. Gazette inviting objections and suggestions to a proposed draft notification on installation of Mobile towers issued under Section 37 of the MRTTP Act. The said draft notification had proposed the installation of mobile towers on all land users earmarked / shown in the sanctioned DP or RP, notwithstanding the land use provisions under the relevant Development Control Regulations (DCR) pertaining to any Development Plan (DP) or Regional Plan (RP), - but had specifically excluded land shown under any reservation in the concerned DP or RP. Clause 6(1) of the said Notification reads as under:

"1) Notwithstanding the land use provisions under the relevant Development Control Regulations (DCR) pertaining to any Development Plan (DP) or Regional Plan (RP), it shall be permissible to install TCS/BS, subject to the compliance of other provisions of this Regulation, on all land users as earmarked on any sanctioned DP or RP, provided that the land is not shown under any reservation in the concerned DP or RP."

A copy of the draft notification is attached hereto as Exhibit 'D'.

9. It appears on the basis of documents obtained by the Petitioners under the Right to Information Act, that some objections/suggestions were received from Mobile tower companies, and their federations such as the Cellular Operators Association of India. Based on the letter of the Joint Director, Town Planning, Konkan Division, Navi Mumbai dated in 31st January, 2014 it appears that it was at the stage of suggestions/objections that the totally new proposal for permitting the

98

installation of telecom towers on reservations (including non-buildable reservations) was first proposed by a mobile telecom company. A copy of the letter outlining the suggestions is attached hereto and marked as Exhibit 'E'. The Joint Director, Town Planning, Konkan Division, Navi Mumbai after considering the said suggestion recommended that the installation of mobile towers on reservations (including non-buildable reservations) be permitted. Annexure 'A' to the letter dated 31st January, 2014 containing the suggestions of the abovementioned authority is attached hereto and marked as Exhibit 'F'.

10. On 7th February, 2014, the Director Town Planning, Maharashtra State recommended a change in the draft/ proposed Rule that had prohibited the installation of mobile towers in areas reserved under the development plans.

11. Thereafter, Respondent No. 1 purported to issue the impugned notification dated 4th March, 2014 in exercise of its power under Section 37 (1AA) of the MRTTP Act, and interalia permitted the installation of mobile towers on both buildable and non-buildable reservations/designations. A few relevant features of the said notification are as under:

- a) The notification amends the DP to permit the construction of base stations (mobile towers) on any land regardless of the land use earmarked in any DP/RP.
- b) Additionally, (and in contrast to the published draft notification) it permits construction of Mobile towers on land designated/ reserved under the DP & RP for both buildable and non-buildable reservations.
- c) In case mobile towers are to be built on non buildable reservations, the same cannot occupy more that 5% of the land

10
or 100 sq.mts., whichever is less, and shall be located in one corner of the site.

- d) Installation of Base Station antenna(e) shall not be permissible within the premises of schools, colleges, and hospitals as well as on the adjoining land/building within 3 mtr. from the boundary walls of schools, colleges, and hospitals. Also antenna(e) shall not be directed/positioned towards any school/college/hospital building.
- e) The site of the towers is to be fenced off and is to have Signboards and warning signs that state (Danger, RF Radiation, Restricted Area, Don't Enter etc.) and the same shall be clearly visible and identifiable.

12. It is apparent that whilst clause 6(i) of the proposed Notification / Notice issued to the Public had specifically excluded the installation of Mobile Towers on lands covered by reservations in the DP & ROP, clause 6(ii) of the final (impugned) notification purports to permit the installation of mobile towers on areas reserved and designated in the DP/ RP (including what was not included in the original notification, and has been purported to be introduced/ included by the Final impugned Notification, without any prior notice/ publication & without giving any opportunity for filing objections against the same, as mandated under Section 37(1AA) of the MRTP Act. The impugned Notification is to that extent *ex facie ultra vires* sec 37(1AA) & illegal.

13. This modification to the notification fundamentally changes the nature & character of the development plan. The impugned notification permits such Mobile Towers to be set up in all areas reserved under the DP & RP for non buildable reservations - i.e. RG, PG, Parks & Gardens. This is a complete departure from, the existing scheme of the DC Regulations that permit only extremely limited 'ancillary uses' in such

reservations. Moreover the said Notification in effect permits change of user in all lands reserved for non buildable reservations in the DP/ RP.

14. The effect of the said notification is to further deplete Mumbai's already overburdened open spaces. As per the Urban Development Plans Formulation & Implementation- Guidelines of Ministry of Urban Affairs, Govt. of India ("UDPF Guidelines"), Mumbai's existing land use ("ELU") of 1.24 sq.mts. per person is much lower than the desired norm of 10-12 sq.mts per person. A copy of the said guidelines is attached hereto as **Exhibit "G"**. Similarly the Preparatory Study Report for the DP 2014-2034 prepared by Respondent No. 2, states that, *"...it is clearly evident that standard planning norms like UDPFI Guidelines that are routinely used for the rest of the country, cannot be directly applied to Greater Mumbai since they would be unachievable for many parts of Mumbai"*. It can thus be seen that in the light of the population density of Mumbai the availability of open spaces in Mumbai are abysmally below the national average and any further encroachment on these spaces is detrimental to the public interest that impinges on the right to life of the Petitioners and the citizenry of Mumbai.

15. The importance of open spaces, and gardens to the public is well established. The Hon'ble Supreme Court has for example set out the importance of green spaces by saying that, *"One of the main objects of public parks or playgrounds is the promotion of the health of the community by means of 'ventilation' and recreation. It is the preservation of the quality of life of the community that is sought to be protected..."*. It has further held that, *"Protection of the environment, open spaces for recreation and fresh air, playgrounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development scheme...the public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for*

84

12

conversion to some other user. Any such act would be contrary to the legislative intent and inconsistent with the statutory requirements. Furthermore, it would be in direct conflict with the constitutional mandate to ensure that any State action is inspired by the basic values of individual freedom and dignity and addressed to the attainment of a quality of life which makes the guaranteed rights a reality for all the citizen".

16. In a city already starved of open spaces, the protection of the same ought to be the primary consideration of Respondent Nos.1 and 2. Moreover to date Mobile towers have been installed & mobile networks rolled out & operated, without permitting such mobile towers to be installed on lands reserved for non buildable reservations (RG, PG, Parks & Gardens) in the DP/ RP. No explanation has been given why such mobile Towers have now been permitted on such areas reserved in the DP for RG, PG, P & G.

17. Moreover while the Impugned Notification prohibits installation of Mobile Towers in the premises of schools & colleges as well as on adjoining buildings within 3 mtrs. from the boundary walls of schools & colleges, apparently on the ground of the deleterious effect on youth & students who attend schools & colleges, it arbitrarily permits the installation of Mobile Towers in RG, PG, P & G which are primarily frequented by children, students & youth for playing games, exercise & leisure. That such Mobile Towers are deleterious to health / emit harmful radiation, is accepted by the impugned Notification itself which requires the site of such mobile towers to be fenced off & have signboards & warning signs that state : Danger, RF Radiation, etc.

18. The Petitioners are challenging the impugned notification dated 4.3.2014 (Exhibit 'A' hereto), on the following grounds which are set out herein below in the alternative and without prejudice to one another:

84

GROUND:

- A. The impugned Notification insofar as it purports to permit construction/ installation of Mobile Towers on lands reserved in the DP for Non Buildable reservations (RG, PG, Parks & Gardens), for the first time, without notifying any such proposal to the Public for their objections/ suggestions & in fact directly contrary to the proposed draft Notification which had been published is ex facie ultra vires 37(1AA). Under the Section 37 (1AA), a draft notification is required to be published, and an opportunity given to the public for giving their comments / objections regarding the same. After considering the said objections/suggestions, and granting an oral hearing to the relevant persons, the State Government is empowered to bring the notification into effect with or without changes. The impugned Notification & in particular cl 6(ii) thereof insofar as it purports to permit installation/ construction of Mobile Towers on lands reserved in the DP for non buildable reservations (i.e. RG, PG, P & G & open spaces) is ultra vires sec 37(1)(AA), inasmuch as no such proposal was ever notified to the Public, nor was any opportunity afforded of raising objections there against. In fact the proposed Notification which was published for inviting objections & suggestions had expressly excluded / prohibited the installation of Such Mobile Towers on lands which were reserved in the DP/ RP. The power under sec 37(1AA) to bring the proposed notification into force with or without changes, cannot & does not permit the Government to bring into force a Notification/ provision which has never been notified to the Public at the first stage & which is in fact directly contrary to the proposed Notification which had been notified to the public for their objections/ comments.

84

14

B. The impugned notification-dated 4th March, 2014 is arbitrary, illegal, violates articles 14 and 21 of the Constitution of India. In particular, it violates the Petitioners' right to life and livelihood by permitting the construction/ installation of such hazardous Mobile Towers on open spaces which are already far below the quantum / percentage / ratio required in the city of Mumbai. As stated above, Mumbai's ELU survey shows that open space availability per person is much lower than the norm set out in the UDPFI Guidelines. Indeed the Preparatory Study Report for the DP 2014-2034 states that, "*Greater Mumbai's unique geographical context has resulted in a constrained availability of land for development and very high population densities*"; and that, "*It is clearly evident that standard planning norms like UDPFI Guidelines that are routinely used for the rest of the country, cannot be directly applied to Greater Mumbai since they would be **unachievable** for many parts of Mumbai*". The right to live in a healthy environment is a part of the right to life enshrined under Article 21. This would include in an urban context, the right of a citizen to have access to parks gardens and recreational spaces. Indeed the Hon'ble Supreme Court has commented on the importance of green spaces as part of the planning process, stating that, "*One of the main objects of public parks or playgrounds is the promotion of the health of the community by means of 'ventilation' and recreation. It is the preservation of the quality of life of the community that is sought to be protected...*". In the instant case, the construction of mobile towers on already very scarce & inadequate open spaces, impinges on the fundamental rights of the Petitioners and other public citizens. The impugned notification opens up every recreation ground, garden, playground, park and open-space in the city of Mumbai to the spectre of installation of mobile towers. It thus has the effect of reducing both the quality and quantity of the open spaces,

gardens, recreation grounds, parks and playgrounds available to the Petitioners and other citizens of Mumbai and is thereby violative of Arts 14 & 21.

- C. The impugned Notification which purports to permit Mobile Towers to be installed in parks, gardens, Recreation Grounds & Playgrounds, which are frequented by children, students & youth, is ex facie arbitrary. The Impugned Notification prohibits installation of Mobile Towers in the premises of schools & colleges as well as on adjoining buildings within 3 mtrs. from the boundary walls of schools & colleges, apparently on the ground of the deleterious effect on youth & students who attend schools & colleges. At the same time the impugned Notification purports to arbitrarily permit the installation of Mobile Towers in RG, PG, P & G which are primarily frequented by children, students & youth for playing games, exercise & leisure. That such Mobile Towers are deleterious to health / emit harmful radiation, is accepted by the impugned Notification itself which requires the site of such mobile towers to be fenced off & have signboards & warning signs that state: Danger, RF Radiation, etc. This had also been noted by the Chief Engineer DP in his aforesaid communication/ appraisal where he had stated that *"These reservations are meant for public purpose. It is therefore felt undesirable to allow such telecommunication tower/base stations etc. on RG/PG plots as like in the premises such as School, Hospitals etc."*. In the circumstances the impugned Notification is ex facie arbitrary.

19. Reliefs and Submissions:

In the premises aforesaid this Hon'ble Court be pleased to issue an appropriate writ order or direction under Article 226 of the Constitution of India quashing the impugned Notification insofar as it purports to

34

16

permit the installation of Mobile Towers on lands reserved in the DP for non buildable reservations : Open spaces, RG, PG, Parks & gardens.

20. The impugned notification insofar as it purports to permit the installation of Mobile Towers on lands reserved in the DP for non buildable reservations : Open spaces, RG, PG, Parks & gardens, is ex facie ultra vires sec 37(1AA) of the Act inasmuch as it has never been notified to the Public for objections as stipulated therein. In fact the Published Notification had provided that such towers will not be permitted on land covered by reservations in the DP. The said Notification is ex facie arbitrary & violative of Arts 14 & 21 inasmuch as it permits the installation of such admittedly hazardous Mobile Towers on Playgrounds, Recreation grounds, gardens & Parks which are frequented by children, students & youth - while prohibiting such towers in or in the vicinity of schools & colleges on the ground that they are hazardous to the health of students. The Petitioners accordingly submit that the interests of justice & the balance of Convenience requires that the impugned notification insofar as it purports to permit the installation of Mobile Towers on lands reserved in the DP for non buildable reservations: Open spaces, RG, PG, Parks & gardens be stayed & the Respondents be restrained from taking any steps or action or granting any permissions on the basis thereof. The balance of convenience is also strongly in favor of the Petitioners inasmuch as the Notification itself accepts the hazardous / dangerous nature of such installations/ Mobile Towers. Moreover Mobile Telephone Cos have managed to roll out & operate their networks for the past decade or more without installing the same in Play Grounds, Recreation Grounds, Parks & gardens. In the circumstances aforesaid the Petitioners say and submit that grave & irreparable harm, injury & prejudice will be caused to the Petitioners & the public at large if interim & ad interim reliefs are not granted in terms aforesaid.

88

21. The Petitioners have not filed any other petition pertaining to the subject matter of this petition either in the Hon'ble Supreme Court of India or in this Hon'ble Court or any other Hon'ble High Court.

22. The Petitioners state that they have no other adequate, alternate or equally effective remedy available to them and that the reliefs claimed hereunder, if granted will be obliged.

23. Respondent Nos. 1 and 2 have their offices in Mumbai. The said impugned notification has been issued at Mumbai. The entire cause of action having arisen at Mumbai, hence this Hon'ble Court has jurisdiction to entertain, try and dispose off this Petition.

24. The Petitioners will rely upon documents, a list whereof is hereby annexed.

25. This Petition is being declared by Petitioner No. 1 who being conversant with the facts and circumstances of the present case is able to depose to the same.

Prayers:

The Petitioners, therefore, pray:

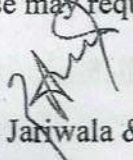
- a) for a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India quashing and setting aside the notification dated 4.3.2014 (Exhibit 'A' hereto) insofar as it purports to permit the installation of Mobile Towers on lands reserved in the DP for non buildable reservations: Open spaces, RG, PG, Parks & gardens.
- b) That pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to stay the impugned Notification insofar as it purports to permit the installation of Mobile Towers on lands reserved in the DP for non buildable reservations : Open


84

18

spaces, RG, PG, Parks & gardens & be pleased to restrain the Respondent Nos.1 and 2 by themselves, their servants, agents, officers from taking any further action or granting any permissions to construct Mobile Towers on lands reserved for RGS, PGs, Parks & gardens based on the impugned notification;

- c) for ad-interim reliefs in terms of prayers (b) above;
- d) for costs; and
- e) for such further other reliefs as the nature and circumstances of the case may require.


M/s. Thakore Jariwala & Associates
Advocates for the Petitioners



Gerson da Cunha *Gerson da Cunha*
Petitioner No. 1

Authorized Signatory of
Petitioner No. 2

Om de lala

Petitioner No. 2

Petitioner No. 3


A.G.N.T.
95 Chadha Building
Vadala (W), Mumbai
Phone : 2416558
D.M. Suchtanekar

Petitioner No. 4

D.M. Suchtanekar
Authorized Signatory of Petitioner No. 4

D.M. Suchtanekar

Petitioner No. 5

Petitioner No. 6

Shrin Bhanusa
Authorized Signatory of Petitioner No. 6

Shrin - an
OVAL TRUST
10, Court View,
126 M. Karve Road,
Mumbai - 400 020
R. Khur

Petitioner No. 7

Shrin Bhanusa
Trustee of Petitioner No. 6

Shrin

Petitioner No. 8

Ashad mehta
Trustee of Petitioner No. 6

VERIFICATION

Trustee of Petitioner No. 6

I, Ashad Mehta the Petitioner No. 8

abovenamed, having my office address at Cecil Court, 3rd Floor, Mahakavi Bhushan Marg, Colaba, Mumbai - 400 005, do hereby solemnly declare that what is stated in paragraphs 4, 5 to 17 of the above Petition is true to my own knowledge and what is stated in the remaining paragraphs 2, 3, 4, 18 to 23 is stated on information and belief and I believe the same to be true.

Solemnly declared at Mumbai)

this 3rd day of July 2015)

Before me,

M/s. Thakore Jariwala & Associates

Advocates for the Petitioners

Swati M. Tari
3-7-15
SWATI M. TARI
ASSOCIATE
HIGH COURT, BOMBAY

\\Nagar PIL\Final cell-tower-Writ_Petition_2.7.2015.docx-

✓
Seen original Authority Letter / Extract of Board Resolution / in r/o
Power of Attorney dated 15-12-2014 in favour of Plaintiff Petitioner
deponent and is stated to be in force, true copy annexed hereto. No. 1

Swati
3-7-15

✓
Seen original Authority Letter / Extract of Board Resolution / in r/o
Power of Attorney dated 15-6-2015 in favour of Petitioner No. 4
deponent and is stated to be in force, true copy annexed hereto.

Swati
3-7-15

✓
Seen original Authority Letter / Extract of Board Resolution / in r/o
Power of Attorney dated 8-4-15 in favour of Petitioner No. 6, 7 and 8
deponent and is stated to be in force, true copy annexed hereto.

Swati
3-7-15

We are not members of the Advocates Welfare Fund. Therefore Welfare stamp of Rs. 2/- is not affixed herewith.

M/s Thakore Jariwala & Associates

Advocate for the Petitioners

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

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the DP for Play Grounds, Recreation
Grounds, Gardens & Parks

1. Nagar (NGO Alliance for Governance &)
Renewal) Trust, A Public Charitable Trust)
registered under the Bombay Public Trust)
Act, 1950, bearing Registration No. F-)
26453(Mumbai) and having its office at)
Cecil Court, 3rd Floor, Mahakavi Bhushan)
Marg, Colaba, Mumbai - 400 005)

21

2. Gerson da Cunha)
Of Mumbai Indian Inhabitant, Trustee of)
Nagar Trust, having his address at 10)
Fairlawn, 128 Maharshi Karve Road,)
Churchgate, Mumbai - 400 020)
3. Dinesh Ahir)
Of Mumbai Indian Inhabitant, Trustee of)
Nagar Trust, having his address at 1305,)
Landmark Tower, A- Wing, G. D. Ambekar)
Marg, Naigaon Opp. Tel. Exchange, Dadar)
(East), Mumbai - 400 014)
4. Agni Trust)
A Public Charitable Trust registered under)
the Bombay Public Trust Act 1950)
bearing Registration No. E-18160)
(Mumbai) and having its office at Chadha)
Building, 1st Floor, Plot 95, Wadala)
Mumbai - 400031)
5. D. M. Sukthankar)
Of Mumbai Indian Inhabitant, Managing)
Trustee of Agni Trust, having his address at)
Priya", 5th Floor, 9, Khan Abdul Gaffar)
Khan Road, Worli Seaface, Mumbai - 400)
030)
6. Organization for Verdant Ambience and)
Land Trust (OVAL Trust))
registered under the Registration No. E-)
18160 (Mumbai).)
A Public Charitable Trust registered under)
the Bombay Public Trust Act 1950 and)
having its office at 10, Court View, 126. M.)
Karve Road, Churchgate, Mumbai 400 020)

22

7. Shirin Bharucha)
 Of Mumbai Indian Inhabitant, Managing)
 Trustee of OVAL Trust having her address)
 at 10, Court View, 126. M. Karve Road,)
 Churchgate, Mumbai 400 020)
8. Ashad Mehta)
 Of Mumbai Indian Inhabitant, Managing)
 Trustee of OVAL Trust having his address)
 at Empress Court, 140. M. Karve Road,)
 Churchgate, Mumbai 400 020) .. Petitioners

Versus

1. State of Maharashtra acting through the)
 Urban Development Department and the)
 department of Environment and Forests)
 having its office at Mantralaya, Mumbai)
2. The Municipal Corporation of Greater)
 Mumbai)
 a Body Corporate incorporated under the)
 provisions of the Mumbai Municipal)
 Corporation Act, 1888 and having its office)
 at Mahapalika Marg, Opposite C. S. T.)
 Station, Mumbai 400 001) .. Respondents

To
 The Prothonotary & Sr. Master,
 High Court,
 Mumbai.

Sir,

We, the Petitioners abovenamed, do hereby appoint M/s. Thakore
 Jariwala & Associates, Advocates and Solicitors, High Court, Bombay,
 to act, appear and plead on our behalf in the above matter.

28

In witness whereof, we have set and subscribed our hands to this
writing at Mumbai.

Dated this day of July 2015.

Accepted :

[Signature]
M/s. Thakore Jariwala & Associates,
Advocates for the Petitioners,
303-304, Natwar Chambers, 3rd Floor,
94, Nagindas Master Road,
Fort, Mumbai 400 023.

Registration No. 3815
Advocate Code 173



[Signature]

Petitioner No. 1

[Signature]
Petitioner No. 2

[Signature]
Petitioner No. 3

[Signature]
Petitioner No. 4

[Signature]
Petitioner No. 5

[Signature]
Petitioner No. 6

[Signature]
Petitioner No. 7

[Signature]
Petitioner No. 8

OVAL TRUST
10, Court View,
126 M. Karve Road
Mumbai - 400 020

24

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. OF 2015

In the matter of Articles 226, 14, & 21
of the Constitution of India:

And

Maharashtra Regional and Town
Planning Act, 1966

And

Notification dated 4th march, 2014
insofar as it purports to permit the
installation of admittedly Hazardous
Mobile Towers on lands reserved in
the DP for Play Grounds, Recreation
Grounds, Gardens & Parks

Nagar (NGO Alliance for Governance & Renewal)
Trust & Ors.

.. Petitioners

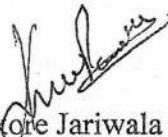
V/s

State of Maharashtra & Anr.

.. Respondents

LIST OF DOCUMENTS

1. Exhibits annexed to the Petition
2. Correspondence prior to filing of the Petition
3. Any other relevant documents attached to the Petition.


M/s. Thakore Jariwala & Associates,
Advocates for the Petitioners

95

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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.. Petitioners


V/s

State of Maharashtra & Anr.

.. Respondents

MEMORANDUM OF REGISTERED ADDRESS

Nagar (NGO Alliance for Governance & Renewal) Trust
C/o. M/s. Thakore Jariwala & Associates,
Advocates & Solicitors,
303-304, Natwar Chambers, 3rd Floor,
94, Nagindas Master Road,
Fort, Mumbai 400 023.


M/s. Thakore Jariwala & Associates,
Advocates for the Petitioners