

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORIGINAL SIDE

PIL WRIT PETITION NO. 904 OF 2005

Ehsanul Haque A. Nadvi  
v/s.  
Union of India and others

.. Petitioner  
.. Respondents

Mr.Akhilesh Upadhyay for the petitioner.

Mr.B.A.Desai, Additional Solicitor General with Ms.Naveena Kumari for the respondent No.1.

Ms.Manjiri Shah with Ms.Chandru Sonpal i/by M/s.Thakore Jariwala & Associates for the respondent No.9.

Mr.G.D.Utangale i/by M/s.Utangale & Co. for the respondent No.3.

Mr.Pradeep Jadhav, Assistant Government Pleader for the respondent Nos.4 and 5.

CORAM : R.M. LODHA &  
A.S.BAGGA, JJ.

DATED : 29TH JUNE, 2006.

P.C.

The grievance has been raised by means of this Public Interest Litigation that the respondent Nos.8 and 9 have damaged Gilbert Hill situate at Andheri (West), Mumbai. An affidavit has been filed by the respondent No.9-Cordcon Builders Pvt.Ltd. that they are carrying on the development work on the land bearing CTS No.254, 276 and 277 with all necessary permissions and sanctions. It is stated that small portion admeasuring about 715

sq.mtrs. of the Gilbert hill is situate on the northern side of the property. The respondent No.9 has stated that the retention wall has been constructed by them and no portion of the hill is being excavated or affected by the development work carried out by them.

2. From the averments made in the writ petition, it transpires that the Gilbert hill is a big site and treasure for geographical study. It has a height of 200 ft. and on top of the hill, there appears to be one temple and dargah.

3. Before we look into the matter further, we are of the view that some expert person needs to be appointed to visit the site and report to the court.

4. We, accordingly, request the Director, Indian Institute of Technology, Powai to nominate an expert from the institute to inspect the Gilbert hill, Andheri (West) (CTS Nos.254, 276, 277, 105, 108, 210, 211, 252, 250 and 216) and report to this court as to whether any development or construction by the respondent Nos.8 and 9 in the area has resulted into damage to the Gilbert hill and whether any portion of Gilbert Hill has been cut and/or removed for the development in the area and the suggestions for protection, preservation and conservation of the Gilbert Hill. The report shall be submitted by such expert so nominated by the

Director, Indian Institute of Technology, Powai within three weeks of his nomination.

5. We direct the respondent No.9 to deposit a sum of Rs.25,000/- with the Registry of this court within one week from today towards tentative cost of the expert.

6. We record that the respondents have already been restrained by the order dated 20<sup>th</sup> April, 2005 from removal and/or cutting, damaging the Gilbert hill in any manner and the said order continues to remain in operation.

Stand over to 10<sup>th</sup> August, 2006.

(R.M.LODHA, J.)

(A.S.BAGGA, J.)