

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL SIDE JURISDICTION

PIL WRIT PETITION NO. 904 OF 2005

Ehsanul Haque A Nadvi

..Petitioner

vs

Union of India and ors.

..Respondents

Mr Akhilesh Upadhya for the petitioners

Mr.Pradeep Jadhav, AGP, for respondent Nos 2, 4, and 5

Mr. B.A. Desai Addl Solicitor General with Rituja Ambekar with

Ms Bharti Mahant i/b Mr. Pankaj Kapoor

for respondent Nos.1 and 7

Mr K.K. Singhavi with Ms S.Ajitkumar for respondent No.6

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

with

Writ Petition No. 123 of 2006

Gaydevi Durga Devasthan Trust.

.. Petitioners

vs

The Union of India and Ors.

..Respondents

Mr. C.U. Singh with Mr Rajan Jayakar i/b M/s Jayakars for the petitioners.

Mr. Pradeep Jadhav AGP for the respondent Nos 2 and 5.

Mr. B.A. Desai Addl Solicitor General with Ms B.L Mahant i/b Mr. Pankaj Kapoor for respondent Nos.1 and 3

Mr. J.B. Chinai i/b M/s A.V. Jain & Associates for respondent No.8

Mrs P.A.Purandhare for respondent No.4

**CORAM: SWATANTER KUMAR, C.J., &
S.C.DHARMADHIKARI, J.**

Dated: 7th June 2007

P.C.:

The learned counsel appearing for the respective respondents i.e. Corporation, State of Maharashtra and the Central Government state that they have instructions from their respective clients to inform the court that various steps are required to be taken to implement the decision of the authorities to declare the Gilbert Hill at Andheri, Mumbai as protected monument as well as heritage structure and prayed for time in that behalf.

The learned counsel for the petitioners relied upon page 44 of writ petition No 123 of 2006 to contend that probably in September 1952 this hill was declared as a National Park and respondents should be directed to place on record the correct position in that behalf. Let the needful be done by the authorities and appropriate affidavits annexed with requisite documents be filed within four weeks from today.

In the meanwhile we direct that no development activities would be carried on the land bearing CTS No.250 part, 251 part and

254 part of village Andheri, Mumbai as noticed in the order dated 6.6.2007 issued by the Corporation. The said order and the plan-map have been placed on record and marked "X" for identification. Liberty to the petitioner to file rejoinder, if any, thereto.

List the matter on 5th July 2007.

CHIEF JUSTICE

S.C.DHARMADHIKARI, J.

Developers to pay for 'damage' to Gilbert Hill

Urvi Jappi
Mumbai, March 14

THE BOMBAY High Court on Wednesday inquired whether the Brihanmumbai Municipal Corporation (BMC) had instructed the Urban Development Department (UDD) to carry out any scientific study to fix the boundaries for Gilbert Hill.

Situated in Andheri, Gilbert Hill is considered to be a geological marvel formed of basalt rock from molten lava. In 2005, businessman Ehsan-ul-Nadvi filed a public interest litigation praying that the hill be protected from the illegal construction around it and encroachments. The PIL states that two developers —

PROTECTING THE HILL

Cordcon Builders and Sagar City Developers — have undertaken construction at the base of Gilbert hill under the Slum Rehabilitation Scheme and the work is causing irreparable damage to the hill.

A division bench of Acting Chief Justice J.N. Patel and Justice V.C. Daga asked the BMC to conduct a survey to ensure that this "geological marvel is not damaged and is preserved."

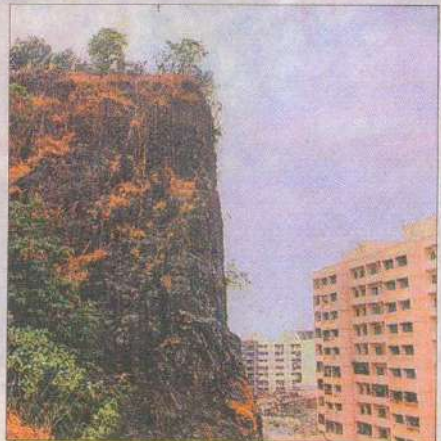
The bench asked the Centre, through the Ministry of Environment and Forest, to form a team

of experts to assist the court.

Justice Patel remarked that if found that the hill was damaged due to constructions undertaken nearby, developers would have to pay the damages at the time of disposal of the PIL, even if they have BMC or state sanction.

In June 2005, the HC had asked IIT to inspect the hill and check whether the construction around it (the hill) has caused any damages. Also, IIT had to inspect whether any part of the basalt rock has been cut or removed during construction undertaken in the neighbouring area. The HC had asked Cordcon Builders to deposit Rs 25,000 with the IIT for conducting the study.

urvi.jappi@hindustantimes.com



FILE PHOTO
Gilbert Hill in Andheri is considered to be a geological marvel formed of basalt rock from molten lava.

Gilbert Hill battles for survival

Unchecked Urban Growth In Andheri Threatens Natural Monument

By Vijay Singh/TNN

Mumbai: Long, long ago, before urban chaos took over the suburb of Andheri, a volcanic eruption reached for the sky from the depths of the earth to form the giant basaltic structure that is Gilbert Hill. Some 70 million years later, today, the imposing hill with its rare vertical hexagonal columns faces an uphill struggle for survival, due to haphazard construction activity around it.

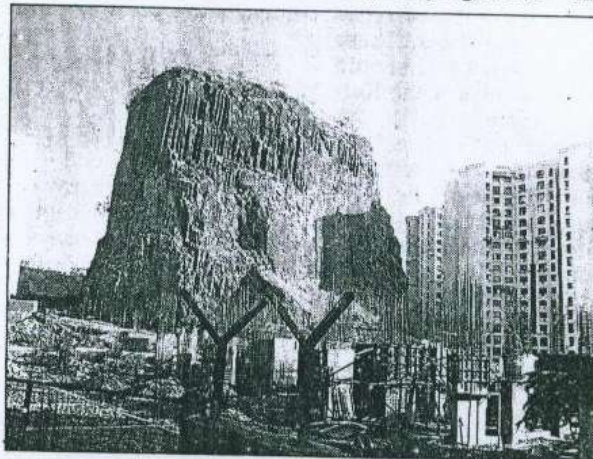
Worried about the threat to the natural monument, the 'Shree Gaondevi Durga Deosthan Trust' which manages a Durga temple atop Gilbert Hill, is now planning to strongly oppose any developmental activity near the hill.

Temple trustee, Rajaram Gadekar told TOI: "First it was the quarry companies that tried to gobble up the hill. But now that quarrying has been banned, builders are trying to grab the space around the hill; in fact recently a compound wall had come up touching the base of Gilbert Hill."

Despite being designated a national monument by the Geological Survey of India, Gilbert Hill has constantly been targeted for the purpose of development which is getting worse by the day. A visit to the hill

by TOI revealed how heavy-duty machines like JCBs are working right next to the base of the hill. In fact, a lot of concrete rubble has also been piled up on one side.

In 1956, the Geological Survey of India had observed that hectic quarrying had al-



Rash constructions cast a shadow on Gilbert Hill

ready encroached upon the hill and temple land beyond the approved limits, making the structure dangerous. In 2004, an independent study by the Sardar Patel College of Engineering also found deep excavations near the rock's base by private builders, which can result in instability.

The former director of the Prince of Wales Museum, Sadashiv Gorakshakar, supported the cause of Gilbert Hill. "The municipal authority must not allow any kind of development near the hill. Documents from 1952 show that the hill was declared a National Park by the Bombay state's 'Parks and Gardens Advisory Committee' and had also passed an order for erecting a boundary around it for preservation," he said. He added that this order was somehow forgotten in later years.

Veteran geologist and a retired professor from the IIT, Mumbai, V Subramanian said that this unique structure that tells a tale of nearly 70 million years must be protected. "In fact, an American, Patricia Rawal, is interested in converting Gilbert Hill into a tourist place as it offers a magnificent view of Mumbai," he said.

Suburban district collector S S Zende said the development work near the Hill was the responsibility of the municipality and the Slum Redevelopment Authority.

Meanwhile, assistant municipal commissioner (K-west ward) Sunil Dhamne told TOI he would have to check the development plans for the area before commenting on the construction activity near Gilbert Hill.