

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO.904 OF 2005

Ehsanul Haque A. Nadvi

: Petitioner

V/s.

Union of India & Ors.

: Respondents

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Mr.Akhilesh Upadhyay for the petitioner.

Mr.R. Raghuwanshi, Addl. Solicitor General, with Ms Bharati Mahant for respondent nos.1 & 7.

Mr.Pradeep Jadhav, Asstt. Govt. Pleader for respondent nos.2 & 5.

Mr.G.D.Utangale with Mr.J.G.Aradwad for respondent no.3.

Mr.K.K.Singhvi, Senior Advocate, with Ms Shobha Ajitkumar for respondent no.6.

Mr.Z.A.Jariwala i/b. Thakore Jariwala & Associates for respondent no.8.

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CORAM : BILAL NAZKI & S.A.BOBDE,JJ.

DATE : FEBRUARY 20, 2008.

P.C.

1. This Writ Petition has been filed primarily for protection of an area known as "Gilbert Hill". According to the petitioner, there is a temple, viz., Gaondevi Durgamata Temple, and Massoomali Dargha which are near to

each other at the top of the hill. The hill was also a tourist place, but a number of multi-storeyed buildings are going to be constructed surrounding the hill by the respondent nos.8 and 9. It is densely populated by slum dwellers. The slum dwellers have occupied a part of the hill, especially the foot of the hill. The relief claimed was that no construction activity should be allowed on the hill and the respondents should be restrained from removing and/or cutting, damaging and/or clearing the stones from Gilber Hill and there should be an injunction restraining the respondents from erecting multi-storeyed buildings without valid permission from the Ministry of Environment and Tourism. It was also claimed that the respondents be directed to provide alternate accommodation for all occupants of the slums constructed prior to January 1995.

2. This case has been pending in this Court for a long time and many affidavits and counter-affidavits have been filed. The situation that emerges now is that the Government of Maharashtra has declared it as a heritage site under the Development Control Regulations, 1991 and as a consequence of this Notification, it is submitted by the learned counsel for the respondents that no building activity would be permissible there. Therefore, the main relief claimed by the petitioner has already been granted.

3. Now whatever has happened before the Notification was issued, that would be a separate question and if the petitioner has any grievance as to what has happened before 2.2.2008 when the Notification was issued, he may take remedies that may be available to him in law. The counsel for the petitioner further submits that he had also prayed that the slum dwellers be given alternate accommodation for the slums constructed prior to January 1995. This also can be agitated by the petitioner before the appropriate forum as this Court would find it difficult to pass any order with respect to slum dwellers in their absence.

4. The Writ Petition is, accordingly, dismissed.

(BILAL NAZKI, J.)

(S.A. BOBDE, J.)