IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5695-5696 OF 2017 (Arising out of SLP(C)Nos.6407-6408/2017)

AMIT R. GOENKA & ORS. APPELLANT(S)

VERSUS

PANDURANG PATIL AND ORS.ETC.ETC. RESPONDENT(S)

ORDER

Delay condoned.

- 1. Leave granted.
- 2. These appeals are filed against the order(s) of the Bombay High Court refusing permission to the appellants to make construction on their own property in spite their having a sanctioned plan. of An application in this behalf was made in a High litigation where the Court had restrained the citizens, except belonging to certain categories to carry on construction in the following terms :
 - "(a) The development permissions/
 IOD shall not be granted by either

the said Municipal Corporation or the State Government on the Applications/proposals submitted 1st March 2016 construction of new buildings for residential or commercial use including Malls, Hotels and Restaurants. Such applications shall be processed, but the and/or commencement certificate shall not be issued. It is that obvious in view ofthis restraint, take no one can advantage of deeming provisions in the DCR and MRTP Act. Needless to state that this condition will not apply to all the redevelopment projects covered by the clauses (5), (6), (7), (8), (9) and (10)the DCR No. 33. This condition will not apply to the buildings proposed to be constructed for the educational hospitals or institutions. The condition shall not apply for consideration of the proposals for repairs/ of reconstruction the existing buildings which do not involve use of any additional FSI in addition the already consumed. to FST restrictions These shall only to the Applications/proposals submitted from tomorrow i.e. March 2016."

3. It is a common ground that the main reason that weighed with the Court for passing such a drastic order is the alarming lack of waste disposal facilities with the

Municipal Corporation of Greater Mumbai. In this background, the High Court was pleased to reject the permission sought by the appellants.

4. We have heard learned counsels for all the parties, including, the learned Attorney General for India. The learned senior counsel for the appellants has submitted that the appellants shall while constructing according the sanctioned plan, not remove any debris, garbage or any other such material from the property in question situated at CTS No. 650, village Juhu, Plot No. 43, Nutan Laxmi CHS Ltd. at N.S. Road No. 9, J.V.P.D Scheme, Ville Parle (West), Mumbai. The learned senior counsel for the appellants has further stated before us that the appellants will not remove any garbage from the site in question at any point of time, until the orders of the Bombay High Court are in force

and thereafter shall do so only in accordance with the rules for such disposal as may be enforced at that time.

- 5. We are inclined to accept the above submission of the appellants.
- 6. Shri R.P. Bhatt, learned senior counsel appearing for the Municipal Corporation of Greater Mumbai, who sought time to file reply and take instructions has accepted the fact that it will meet the purposes of the order of the High Court if the appellants do not dispose of any waste material, including, debris and household garbage outside the site in question.
- 7. Having given our anxious consideration to the matter and the undoubted right of the appellants to carry on construction on their own property in accordance with the

sanctioned plan, in the facts and circumstances of this case, we permit the appellants to carry on construction at the site, as mentioned above, in accordance with the approved building plan. The appellants shall keep their property open for inspection by the officials of the Municipal Corporation of Greater Mumbai at all times. The Municipal Corporation shall forfeit the appellants' right to carry on construction if they violate the conditions whereby they are restrained from removing any garbage, dabris etc. from the plot in question.

8. The civil appeals are disposed of in above terms.

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	[S.A. BOBDE]
	J.
	[L. NAGESWARA RAO]

NEW DELHI, APRIL 28, 2017.

SUPREME COURT OF INDIA RECORD OF PROCEEDINGS

Petitions for Special Leave to Appeal (C) No(s). 6407-6408/2017

(Arising out of impugned final judgment and order dated 26.02.2016/29.02.2016 in civil Application No. 221/2013 in PIL No. 217 of 2009 and final judgment and order dated 22.09.2016 in Civil Application No. 104/2016 in Civil Application No. 221/2013 in PIO No. 217/2009 passed by the High Court Of Bombay)

AMIT R. GOENKA AND ORS.

Petitioner(s)

VERSUS

PANDURANG PATIL AND ORS ETC ETC Respondent(s) (With appln. (s) for c/delay in filing SLP and exemption from filing c/c of the impugned order and permission to file additional documents and interim relief and office report)

Date: 28/04/2017 These petitions were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE S.A. BOBDE HON'BLE MR. JUSTICE L. NAGESWARA RAO

Mr. Mukul Rohatgi, AG

Mr. R. Balasubramanian, Adv.

Ms. Aarti Sharma, Adv.

Mr. Ananya Mishra, Adv.

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.

Mr. Pramod B. Agarwala, Adv.

Mr. A. Agarwala, Adv.

Ms. Neevia, Adv.

For Respondent(s) Mr. C.U. Singh, Sr. Adv.

Mr. Mahesh Agarwal, Adv.

Mr. Ankur Saigal, Adv.

Mr. Rishabh Parikh, Adv.

Mr. Navjot Singh, Adv.

Mr. E.C. Agrawala, Adv.

Mr. Mukesh Verma, Adv.

Mr. Pawan Kumar Shukla, Adv.

Mr. Bikas Kumar Sinha, Adv.

Mr. Yash Pal Dhingra, Adv.

Mr. R.P. Bhatt, Sr. Adv.

Mr. P.V. Naik, Adv.

Mr. S. Sukumaran, Adv.

Mr. Anand Sukumar, Adv.

Mr. Bhupesh Kuamr Pathak, Adv.

Ms. Meera Mathur, Adv.

Mr. Kunal Vajani, Adv.

Ms. Bindi Dave, Adv.

UPON hearing the counsel the Court made the following O R D E R $\,$

Delay condoned.

Leave granted.

The civil appeals are disposed of in terms of the signed order.

[Charanjeet Kaur] [Indu Pokhriyal]
A.R.-cum-P.S. Court Master

[Signed order is placed on the file]