

Amrita Prithwishwar vs State Government of Maharashtra, 2017

Bombay High Court

26 Oct 2018

BENCH: Jst. S.C Dharmadhikari, Prakash D. Naik J. P.V Salunke, PA.

CITED: Writ Petition (L) No. 2766 of 2017

LEGISLATION CITED:

Constitution of India, Metro Railway (operation and Maintenance) Act, 2002, Environment Protection Act, 1986, Forest Conservation Act, 1980, Wildlife Protection Act, 1972

ISSUE:

Writ of Mandamus was filed before the Bombay High Court in respect to issue any direct, order to the technical Committee for allotting part of land in Kanjur Marg for construction of parking lots for metro in order to prevent the destruction of trees in Aarey Milk Colony and to prevent harm to environment.

FACTS:

In 2010 the government proposed extension of Metro Line Seepz (Andheri East) to Mahalaxmi Race Course, for this purpose government allocated 30 hectare of Land for constructing Metro Car Parking Shed, and an extra 3 Hectare for at Aarey Depot for raising funds for Metro Phase III. There were 4 parties to the case, First State of Maharashtra, Second Deputy Director of Town Planning Mumbai, Third is Municipal Corporation and Fourth Authority Constructing the Metro Shed. In 2014, the concerned authority seek permission for cutting 2,298 tree at Aarey Depot. This led huge outcry, the authorities planned to transplant 1727 tress, and cut 1074 from 26 station allocated land excluding Aarey Depot. The petition claimed Aarey to be pristine land, uninhabited and a natural forest. The entire area of Aarey milk Colony is termed as “Lungs of Mumbai” for its air-purification purpose. Hence Challenged the Notification dated 24th Aug 2017, this petition was filed challenging the aforementioned notification and issue appropriate writ or direction, order to Respondent for allocating different piece of land in Kunjur Marg than Aarey Milk Colony for the purpose of construction of Parking lot.

DECISION:

The Bombay High Court dismissed the writ petition and discharging Rule without any order as to cost. Directed the Authority responsible for construction of Metro Line (4th Respondent) to abide by the condition imposed and no activity contravening or violating same would be permitted at site. Directed the State Government (1st Respondent) and the Municipal Corporation (3rd Respondent) for ensuring the same condition would be followed by the 4th Respondent. The court upheld validity and legality of the notification, but strictly directed ensuring no working to be carried out unless the aforementioned condition are met. The court directed 4th Respondent to get prior sanctions from the concerned authorities regarding the commercial user has been permitted at Aarey before cutting down trees.