

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****PUBLIC INTEREST LITIGATION (Lodging) NO. 131 OF 2012**

Jalbiradari and another

.... Petitioners

vs

Mumbai Metropolitan and Regional
Development Authority and ors.

.... Respondents

Ms. Gayatri Singh for the petitioners.
Mr. Kiran Bagalia for respondents 1 and 2.
Mr.Pavan S.Patil for respondent No.3.
Ms. Sharmila Deshmukh for respondent 4.
Mr. Niranjan Pandit for respondent no.5.
Ms.Deepti Mistry i/b V.J. Mehta for respondent No.6.

**CORAM: MOHIT S. SHAH, C.J. &
ANOOP V. MOHTA, J.**

DATE : 5 February 2013

P.C.

After respondent No.1- Mumbai Metropolitan and Regional Development Authority (MMRDA) and respondent No.3- Maharashtra Pollution Control Board have filed their respective affidavits-in-reply, Ms.Gayatri Singh, learned counsel for petitioners seeks leave to withdraw the petition in order to avail of alternative remedy before the National Green Tribunal.

2. Ms.Kiran Bagalia, learned counsel for MMRDA opposes the request.

3. Ms.Singh states that it was for the first time when petitioners were served with copy of the affidavits-in-reply including therewith the Environmental Clearance dated 4 December 2012 issued by the Government of India, Ministry of Environment & Forests, that the petitioner realised that now they will have to move the National Green Tribunal. Accordingly, request is made to withdraw the present PIL, which was filed in November 2012.

4. Since the Environmental Clearance is issued by the MOEF after filing of the PIL, we permit the petitioners to withdraw this petition in order to challenge the Environmental Clearance before the National Green Tribunal.

It is clarified that we have not heard the learned counsel for parties on merits of the controversy.

5. Having regard to the fact that petitioners were prosecuting this PIL, during pendency of which the Environmental Clearance has been granted, petitioners will be at liberty to move the National Green Tribunal for condonation of delay, if any, and the explanation will be duly considered by the National Green Tribunal, if proceedings before the National Green Tribunal is filed within two weeks from today.

6. Subject to the above observations, this Public Interest Litigation is disposed of as withdrawn in order to enable the petitioners to avail of the alternative remedy.

CHIEF JUSTICE

(ANOOP V MOHTA, J.)

Bombay High