

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
o.o.c.j.  
PIL WRIT PETITION NO.2116 OF 2005

Mr. Kirit Somaiya  
V/s.  
State of Maharashtra and others.

Petitioner  
..... Respondents

Mr. Janak Dwarkadas, senior Counsel with Ms. Madhavi Diwan & Mr. D..H.Mehta  
i/b M/s. Dhruva Liladhar & Co. for the petitioner.

Mr.Ravi Kadam, Advocate General with Mr. K.R. Belosay, Assistant Government  
Pleader for respondent Nos. 1,2,5 and 10.

Mr. Rajeshkhar Govilkar for the respondent no.8.

Mr.C. M.Lokesh for the respondent no.7.

Mr. K.K. Singhvi, Senior Counsel with Mr. P. A. Purandare for B.M.C.

Mr. B. A. Desai, Additional Solicitor General with Mrs. S.V. Bharucha for the  
respondent no.9.

CORAM: R.M. LODHA &  
ANOOP V.MOHTA, II

DATED: 1<sup>ST</sup> MARCH, 2006.

**P.C.**

Pursuant to our order dated 22<sup>nd</sup> February, 2006 on behalf of Mithi River  
Development and Protection Authority (MRDPA), an affidavit has been filed by its  
Member-Secretary and Project Director Dr. Vikas Sadanand Tondawalkar.

2. In his affidavit, the Project Director and Member-Secretary of MRDPA  
has stated that Indian Institute of Technology (IIT), Mumbai was  
entrusted the work of development action of plan for the environmental  
improvement of Mithi river in its first meeting held on 1<sup>st</sup> September,  
2005. For the purpose of carrying out the hydraulic studies, it was  
decided to entrust the said work to CWPRS, Khadak wasia. CWPRS  
submitted its final interim report in the month of January, 2006 and IIT,  
Mumbai submitted its final interim report on 23<sup>rd</sup> February, 2006.

M/s.Air-O-Cleen Associates were appointed to conduct the cadastral survey and flood mapping survey of the entire (17.8 kms.) stretch of Mithi river from Mahim Causeway to its original Vihar Lake and (4 kms.) Vakola Nalla from Bandra-Kurla Complex to Santacruz Airport. The details of the said survey were furnished to the IIT, Mumbai and CWRPS, Khadakwasla to facilitate them to make their reports. CWRPS, Khadakwasla in its final interim report recommended to increase the carrying capacity of the river by undertaking deepening and widening works. In the affidavit, the Project Director-cum-Secretary has also stated that on behalf of MRDPA, MMRDA has appointed IIT, Mumbai to conduct a base lines socio-economic survey for the entire Mithi river and Vakola Nalla. This was sought to be done with a view to identify the structures which would be affected by the widening of the river as per the recommendations of CWPRS. This survey is independent to the survey that was carried out by the Collector, Mumbai Suburban District.

3. As per the survey conducted by the Collector, Mumbai Suburban District, 3600 encroachers were found within 30 meters width on either side within the stretch from Mahim Causeway to CST Bridge and within the river basin beyond CST Bridge up to Vihar Lake. It is stated that the work of removal of these illegal encroachments and rehabilitation of project affected persons would be completed as far as possible by 31<sup>st</sup> May, 2006.
4. We may observe that the experience that the city had on 26<sup>th</sup> July, 2005 must open the eyes of the concerned authorities necessitating swift action and avoidance of past experience. In our view, in the light of the survey that has already been conducted, it should be the endeavour of the Collector, MSD to ensure that all 3600 encroachers are removed by 31<sup>st</sup> May, 2006. We order accordingly and direct the Collector, Mumbai Suburban District to ensure the removal of 3600 encroachers having their structures within 30 meters width on either side of the river by 31<sup>st</sup> May, 2006 and that they are also rehabilitated by that date.
5. As regards the unauthorized industrial units identified by Maharashtra Pollution Control Board, we direct the said Board to take appropriate action including the Closure of these industrial units as early as possible. Obviously, the Maharashtra Pollution Control Board shall observe the due process of law in that regard.
6. We accept the proposal of MRDPA to implement the Mithi river development works in two phases. As regards phase I, works which comprise of deepening, widening and desilting of Mithi river and resettlement and rehabilitation of project affected persons, we direct

the entire work to be completed by 31<sup>st</sup> May, 2006. It shall be for MRDPA to monitor and oversee the work of deepening, widening and desilting being done and executed by MMRDA and MCGM.

7. We also accept the statement made by Project Director-Cum-Secretary that phase II work shall be undertaken after the monsoon of 2006. Phase II work shall comprise of pitching, construction of retaining wall, construction of service roads, land-scape development, beautification work on either side of the river along with additional widening works and deepening works.
8. We record and accept the statement of Mr.K.K.Singhvi, the learned senior counsel for Municipal Corporation of Greater Mumbai that every day the garbage, solid waste etc. is removed from the entire stretch of Mithi river that falls within the jurisdiction of Municipal Corporation. He submits that he would satisfy us in this regard by placing the photographs taken that shall be taken tomorrow i.e., 2<sup>nd</sup> March, 2006. For this purpose alone, we direct the office to post the matter on 3<sup>rd</sup> March, 2006. For this purpose alone, we direct the office to post the matter on 3<sup>rd</sup> March, 2006 at 3.00 P.M. Under the caption 'For Direction' to satisfy ourselves with regard to the statement made on behalf of the Municipal Corporation of Greater Mumbai by Mr. K.K.singhvi as recorded above.
9. In view of the statement made by Mr. Govilkar, the learned counsel for the Maharashtra Pollution control Board that the power supply company viz. Reliance Energy Limited has been directed to disconnect the power supply to unauthorized industrial units, we direct the impleadment of the Reliance Energy Limited as party respondent. Let notice be given to the Reliance Energy Limited. Returnable on 22<sup>nd</sup> March, 2006.
10. At the cost of the petitioners, MRDPA is directed to furnish copies of final interim reports submitted by IIT, Mumbai, CWPRS, and Khadakwasla.

**(R.M.LODHA J.)**

**(ANOOP V.MOHTA, J.)**