

ITEM NO.2

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1595/2018

(Arising out of impugned final judgment and order dated 08-10-2013 in CA No. 109/2013 passed by the High Court Of Judicature At Bombay)

AMIT KISHAN BAGADE & ORS.

Petitioner(s)

VERSUS

BOMBAY ENVIRONMENTAL ACTION GROUP & ORS.

Respondent(s)

([HON' CJI COURT MENTIONING NTBD DTD. 29.01.2020]

IA No. 107520/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 165827/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 107522/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-02-2020 This matter was on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Narender Hooda, Sr. Adv.
Mr. Prashant S. Kenjale, Adv.
Mr. Nishant, Adv.
Ms. Seema, Adv.
Mr. Rakesh K. Sharma, AOR

For Respondent(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Amar Dave, adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Ms. Ayushi Amod, Adv.
Mr. E.C. Agrawala, AOR
Mr. Rajesh Kumar, Adv.

Mr. Kunal Cheema, AOR

Mr. Venkatesh, Adv.
Mr. Vikas Maini, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Shashibhushan P Adgaonkar, Adv.

Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, Adv.
Mr. Rana Sandeep B., Adv.
Mr. Gagandeep Sharma, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard the matter for some time.

In brief, the use of about 100 acres of land in the Panchgani area within the jurisdiction of the Panchgani Municipal Council, falls for our consideration.

The petitioners before us are horse cart owners who claim to have been plying these horse carts for the entertainment of tourists for some time now. The High Court has allowed them the use of 20 Acres of land located on the lower side of the table land on which they may use their horse carts. On the main table land, which is about 80 acres, the High Court has prohibited the plying of horse carts. However, horses are allowed to move on designated track over that 80 acres table land.

According to the horse cart owners, it is not possible to ply these horse carts over the 20 acres since this land is extremely uneven and unsuitable for horse carts. Instead, they claim that they be allowed to ply their horse carts over the other 80 acres, on a road which might admeasure a total of 2 acres. At this juncture, it is very clear to us

that considering the topography, the High Court is right in prohibiting the use of 80 acres table land by the horse cart owners. The High Court is also right in restricting the horse cart owners to the 20 acres of land below the table land.

However, the submission by Shri Narender Hooda, learned senior counsel appearing on behalf of petitioners is that the horse cart owners ply their horse carts in order to earn livelihood and if they can't do so, it would result in a denial of livelihood. Learned counsel submits that the tracks that exist on the 20 acres are extremely uneven and at some points dangerous also. He submits that the Municipal Council should provide a levelled track so that the horse carts can be plied with ease and safety. This contention merits acceptance.

Shri Kunal Cheema, learned counsel for the Panchgani Municipal Council states that the possibility of providing levelled track for horse carts for the use by the petitioners, horse carts owners can be explored.

We, accordingly, consider it appropriate to direct that the Municipal Council of Panchgani shall set out a plan for providing a levelled track for horse carts within 20 acres demarcated for horse carts owners. For this purpose, they may explore

the possibility of levying some entry fee tax or cess for generating funds for the same. The Municipal Council may also consider providing an alternative livelihood for horse cart owners either by formulating some scheme for purchase of taxis or allotment of shop areas at a suitable place to the petitioners horse cart owners. The Municipal Council may carry out the above exercise and report to this Court within a period of six weeks from today. The Bombay environmental Action Group may also assist the Municipal Council in suggesting Environmental friendly means of livelihood for the horse cart owners in the aforesaid period of six weeks.

Order accordingly.

Put up after eight weeks.

[CHARANJEET KAUR]
A.R. - CUM - P.S.

[INDU KUMARI POKHRIYAL]
ASSTT. REGISTRAR