

srp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2131 OF 2011

Bhikaji Jagannath Waghdhare. ..Petitioner.
Versus
Nuclear Power Corporation of India
Limited and others. ..Respondents.

S.S.Limaye for the petitioner.
Lopa A. Munim i/b Rajesh Kothari & Co., for R-1.
J.S.Saluja, AGP for R-4, 5 & 7.
Sharmila Deshmukh for R-8.
A.V.Pawarkar for R-6.

Coram : MOHIT S. SHAH, C.J. &
RANJIT MORE, J.
Date : **February 24, 2012.**

P. C. :

1. In this writ petition, the petitioner has prayed for various reliefs. As far as substantive reliefs (a) to (d) are concerned, they all challenge the clearance given by the Government of India in Ministry of Environment and Forest [for short "MoEF"] on 26th November 2010 and the connected issues. We find considerable force in the submission made on behalf of respondent no.1 that all these reliefs can be prayed for before the National Green Tribunal, which is only seized of the matter in Appeal No. 16 of 2011. A copy of the

notice issued by the National Green Tribunal for the hearing fixed on 28th November 2011 is also produced at Exhibit-C to the Notice of Motion No. 606 of 2011 filed by respondent no. 1.

2. In view of the above, this writ petition cannot be entertained insofar as the petitioners have challenged the environmental clearance granted by MoEF of Government of India in favour of respondent no.1.

3. Learned counsel for the petitioner, however, vehemently submits that the petitioners are affected by the illegal action of the respondents in acquiring, encroaching upon the lands/ homestead / plantation on land bearing Hissa Nos. 19, 21, 22 and 23 in Survey No.119 of village Madban taluka Rajapur district Ratnagiri. It is submitted that since the above actions are being taken without following the procedure prescribed by law, the writ petition is maintainable insofar as the said prayer is concerned. It is submitted that though the prayer is couched as an interim prayer, the petitioner may be permitted to amend the petition and to pray for the same as substantive relief.

4. Instead of granting permission to amend the petition, as requested, we leave it open to the petitioner to file substantive petition in case any property rights of the petitioner are violated by any encroachment over the land on which the petitioner claims ownership.

5. Subject to above liberty, the writ petition is dismissed.

[CHIEF JUSTICE]

[RANJIT MORE, J.]