

Presented on : 23/03/2017  
Registered on : 23/03/2017  
Decided on : 16/11/2017  
Duration : 00Yrs.07M.24D.  
**Exh. No.30**

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, PUNE**  
(Presided Over by Satyasheela T. Katare)

**REG.CRIMINAL CASE NO. 1411/2017**

Maharashtra Pollution Control Board  
Kalpataru Point Bldg., 3<sup>rd</sup> and 4<sup>th</sup> floor,  
Sion(East), Mumbai-400 022  
(Represented by Shri. S.S. Doke,  
Regional Officer-Pune  
Maharashtra Pollution Control Board  
3<sup>rd</sup> Floor, Jog Center,  
Wakadewadi, Mumbai-Pune Highway,  
Pune- 411 003



.....**COMPLAINANT**

-VERSUS-

1. M/s. Abhinav Rainbow Developers and Promoters,  
Sr.No. 270/1-3, 273/1-2, 317/1-5,  
At village Bavdhan, Tal. Mulshi, Pune  
(Summons to be served on 2 and 3).
2. Mr. Shamkant Jagannath Shende (Wani)  
Flat no. 506, Abhivan Residency,  
Range Hills, Bhosale Nagar,  
Pune-411 007.
3. Mr. Sunil Popatlal Nahar  
Flat No. 1602, T4 Tower, Castle Royale  
ABIL Group, Behind Pune University,  
Bopodi, Pune 411 020.

.....**ACCUSED**

**Offence under section 15 read with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006).**

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Advocate Mohana Gadre, for the Complainant.

Advocate Mr. V.A. Musale, the learned advocate for accused.


**JUDGMENT**

(Delivered on 16<sup>th</sup> day of November, 2017)

01. The complainant Mr.S.S.Doke, Regional Officer of the Maharashtra Pollution Control Board, at Pune [For short "MPCB"] alleging that accused have committed the offence under section 15 read with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006) [For short "MPCB Board"]. He is authorized to file complaint under the Provisions of the Environment (Protection) Act, 1986.

**Following are the facts in nutshell:-**

02. It is contended that accused no. 1 is a Private Company constituted under the provisions of the Companies Act, 1956. Accused no. 1- Company is represented by accused no. 2 i.e. Mr. Shamkant Jagannath Shende (Wani) and accused no. 3 Mr. Sunil Popatlal Nahar who are the persons incharge of accused no. 1- Company. They are directly incharge of and responsible to the company for the conduct of business of the company as well as the company and responsible for the project Pebbles-II Residential development with convenient shopping at Sr.No. 270/1-3, 271/1-3, 273/1-2, 317/2-4, 318/2



Bavdhan (BK), Tal. Mulshi, Dist. Pune and compliance of various provisions of the above Environmental Laws including the EIA, Notification, 2006. It is contention of the complainant that accused have carried out excess construction of total BUA admeasuring 25308.41 sq.mtr. at the site without prior permission of the complainant board.

03. It is further contended that the complainant board has filed the complaint against accused persons for the offence under section 15 read with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006). Hence, the complainant filed this complaint against accused.

04. On behalf of accused no.1 company, accused nos. 2 and 3 appeared before the Court. Today they remained present before the Court. The charge has been framed against them, to which they pleaded guilty and submitted that this is their first offence and they want to voluntarily plead guilty for the offence leveled against them on behalf of the company as well as themselves. They submitted separate application in respect of plead guilty before the Court at Exh.24. Consequences of plead guilty were narrated to all accused. However, the said accused persons remained firm on their decision to confess the guilt with prayer for minimum punishment.

05. The learned advocate for the complainant board submitted that accused be punished with maximum fine. Accused submitted that this is the first case alleged against them. They do not have antecedents. So also, they submitted that leniency be shown while passing the sentence and prayed for minimum fine. As accused voluntarily pleaded guilty, it appears to be first offence of accused. Therefore, in my opinion it is just and proper to direct

accused to pay maximum fine amount. Hence, I pass the following order:

**ORDER**

1. Accused nos. 1 to 3 are hereby convicted vide section 246(3) of the Code of the Criminal Procedure for the offence under section 16 punishable under section 15 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006) and sentenced to suffer simple imprisonment for till rising of the Court and to pay fine of Rs. 60,000/- (Rs. Sixty Thousand Only) each in default simple imprisonment for 40 days each.

The copy of judgment be supplied to the accused free of cost.

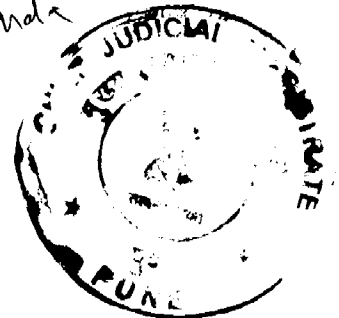
Pronounced in open Court.

Date : 16/11/2017.

*sd/- 16/11/17*  
 (Satyasheela T. Katare)  
 Chief Judicial Magistrate, Pune.

*Recd fine of Rs 60,000/- each  
 from accused no 1 to 3 total  
 fine Rs 1,80,000/- on 16.11.17 via  
 A/c no 0189973 + 0189975*

*16.11.17*  
 Asstt. Supdt.  
 Chief Judicial Magistrate  
 Court. Pune



② *Praci*  
 Accused no. 2 for self & as  
 Partner of Accused no. 1

③ *SUNIV*  
 Accused no. 3 for self & as partner  
 of Accused no. 1

TRUE COPY

*16.11.17*  
 Asstt. Supdt.  
 Chief Judicial Magistrate  
 Pune

*16/11/17*  
 Compared by *[Signature]*