

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

**NOTICE OF MOTION LODGING NO.139 OF 2013  
IN  
PUBLIC INTEREST LITIGATION PETITION NO.33 OF 2011**

**Flank Road Citizen's Forum & ors. : Applicants.**

**In the matter between :**

**Telang Road Residents Association & ors- : Petitioners.**

**Versus**

**State of Maharashtra and ors. : Respondents.**

**Mr. Akshay Patil for the Applicants.**

**Mr. Ajay Fernando i/by Mr. S S Redkar for the Petitioners.**

**Mr. B B Sharma AGP for the Respondent Nos.1, 5 and 6**

**Ms. Sharmial Modle for the Respondent - BMC**

**CORAM : MOHIT S. SHAH, CJ &  
M.S.SANKLECHA**

**DATE : 22<sup>nd</sup> OCTOBER 2013**

**PC.**

1 Public Interest Litigation Petition No.33 of 2011 was filed by the Residents of Telang Road and Bhau Daji Road, Matunga, Mumbai to shift the Motor Loader Chowky situated at Telang road to another place in view of the nuisance being caused by running the Motor Loader Chowky at Telang Road.

2 In our order dated 1<sup>st</sup> March 2012 we recorded the statement made on behalf of the Municipal Corporation that the Corporation had

identified an open plot at Flank Road (behind Telephone Exchange) near Shanmukhananda Hall. The Corporation was granted 9 months time to construct the said chowky on the said place.

3 The present Notice of Motion has been taken out by the occupants of Flank Road making a grievance that shifting of garbage chowky to Flank Road would cause hardship and nuisance to the residents in that area.

4 In view of the above grievance, the Municipal Corporation was called upon to find out any suitable place. The Municipal Corporation i.e. the Assistant Commissioner (F/North) suggested that the above Motor Loader Chowky can be shifted from Telang Road to Rafi Ahmed Kidwai Road. The submission of the Assistant Commissioner indicates the following facts :-

“In this context, Assistant Commissioner (F/North) visited the proposed site at Rafi Ahmed Kidwai road along with A.E. (Maint.) and A.E. (S.W.M) of F/North ward. On inspection, it was observed that at this proposed spot there is unused open space beyond the existing four lanes of Rafi Ahmed Kidwai road. This vacant space which is subject to encroachment can be effectively used for shifting of M.L. Chowky and proper parking of S.W.M. Vehicles without creating, nuisance to any residents of nearby area as it is very much abutting to the railway premises (towards railway track of harbour line). Also there are already existing chowkies of Maintenance and other department at this particular spot as this spot happens to be a proper spot and no nuisance is created either for traffic or to the local residents.”

5           The learned counsel for the Municipal Corporation states that in view of above facts the Municipal Corporation has already taken a decision to shift the Motor Loader Chowky from Telang Road to Rafi Ahmed Kidwai Road. In view of above, nothing further survives in this Notice of Motion, and therefore the Notice of Motion is disposed of with directions to the Municipal Corporation to shift the Motor Loader Chowky from Telang Road to Rafi Ahmed Kidwai Road as expeditiously as possible and in any case by 31<sup>st</sup> December 2013. Notwithstanding the disposal of the Notice of Motion and the Public Interest Litigation, the Municipal Corporation shall submit its compliance report to this Court latest by 1<sup>st</sup> Week of January 2014 and serve a copy of the same on the Petitioner in the Public Interest Litigation as well as the Applicants in the present Notice of Motion

**CHIEF JUSTICE**

**(M.S.SANKLECHA)**