

Is Someone Trying To Usurp Your Neighbourhood Ground? Fear Not. Arm Yourself With The Right Information To Save It

KNOW YOUR RIGHTS TO RECLAIM YOUR GREEN LUNGS

Sukhada Tatke | TNN

A few years ago, Powai residents noticed that a developer had constructed buildings around a reserved playground. Although the ground could still be accessed, the gate was guarded by burly security men. The sight was enough to confound the neighbouring slumdweller and keep them at bay. A bunch of residents felt something was amiss and approached NGO CitiSpace for help.

A look through municipal records showed up that the plot was indeed a public playground. After meetings and follow-ups with the developer, the residents managed to resolve the problem amicably. This was possible only because they were armed with knowledge.

Likewise, if there is a reserved open space languishing in your backyard or has fallen prey to misuse and you want to save it, information is key, say activists. It may be a long-drawn battle before the plot is actually used for its original purpose. But, if you're determined to save the green lung, it is not such a Herculean task.

Open space activists say that the first step towards reclaiming a space for either a playground, recreation ground, park or garden is to know its reservation status in the development plan (DP). Many a times, it ends up being a private plot and nothing much can be done about it then. However, if it is reserved under the DP for any type of open space, a battle can be forged.

The first stop is at the assistant municipal commissioner's office or the local corporator. However, experts advise that before approaching either, it is worth the while to be armed with basic information about the garden. But how does one get the information?

"If people don't know how, they can approach us or the local ALM to find out the status of the garden — whether it is reserved or not. We help them look up the location on the DP and tell them about it. A local architect can also help look up the DP. If the plot is indeed reserved and is either encroached upon or used for activities other than the reservation, one can go ahead and register a complaint with the civic body," said CitiSpace co-convenor Nayana Kathpalia. "Officials are always more cautious if they know that people are aware of what is rightfully theirs. It



CHIPPING AWAY AT MOTHER NATURE: The battle to stop illegal quarrying at the Sanjay Gandhi National Park went all the way to the Bombay High Court

makes things simpler if we know the status of the open space before approaching the authorities." The NGO gets at least 50 inquiries a month on how to save an open space.

Another tool for finding out the status of an open plot in your vicinity is by using the Right to Information Act. Often, officials try and misguide the person asking her or him to give the City Survey Number of the plot, which is very difficult to find. "However, giving the exact location by describing the proximity of the plot to other landmarks is enough," said RTI and open space activist Bhaskar Prabhu.

"Under the Act itself, it is stipulated that all records need to be maintained by the government agency. In fact, officials are even expected to help the citizen file the application."

Six things to do to save your open spaces

If you find an open space languishing or encroached upon in your backyard:

- 1) You could approach the local ALM or an NGO with your problem
- 2) Alternatively, you could go to the corporator or the ward officer. However, this would help only if you know the plot's reservation status beforehand
- 3) Once you approach the ALM or NGO, find out the reservation status of the ground from the Development Plan. You could even approach an architect

Problem arises if the law on open spaces is not clear; it is often misused. "Under the Development Control Rules, about 15-20% of the construction is permissible on open spaces. This is where the misuse lies. If a layman goes to com-

who will read the DP for you

- 4) If the plot—either a recreation ground, playground, garden or park—is reserved for an open space, you could go ahead and file a complaint
- 5) Register your complaint on the BMC helpline 1916 or by visiting the ward office's citizens facilitation centre or log the complaint on the BMC website mcgm.gov.in
- 6) Once the complaints are filed, follow up regularly with concerned officers

plain, authorities can twist the tale and tell him that construction is permissible," said former municipal commissioner D M Sukhtankar. "The complainant should not give up and probe further. If at face value, one can see

that the construction is not for ancillary reasons, the complainant should take the matter further and seek help from experts." Sometimes, the officer could tell the person that the plot belongs to another government agency. "But one should bear in mind that regardless of ownership, it is the BMC's duty to ensure it is being used for what it is reserved."

Activists warn that often one must be willing to wage a long-drawn battle. "Complaints need to be relentlessly followed, else they run a risk of going unattended into a black hole," said Praja trustee Nitai Mehta. The NGO has compiled various complaints received by the BMC. "Although there is no specific record of the number of complaints related to open spaces, there are many on encroachments."

URBAN SPRAWL, OF A DIFFERENT KIND

Open spaces have quantifiably lifted the living standards of cities across the globe. Here are four examples to illustrate the point

PARK

Flagstaff Gardens, Melbourne, Australia

Spread across 7.2 hectares (18 acres), Flagstaff gardens is the oldest park in Melbourne, established way back in 1862. A paradise for office-goers and tourists, it is acknowledged for its horticultural, archaeological, historical and social significance to Melbourne. The park, managed by the City of Melbourne, is replete with lawns that boast mature trees, and is equipped with sports facilities. Locals are allowed to rent it for barbeque. Plaques, memorials and sculptures light up the area. Melbourne has 55.4 square metres of open space per resident and an interactive open space policy.



CREEK

Sherman Creek, New York, USA



The creek situated along the Harlem river in the neighbourhood of Inwood, Upper Manhattan, had fallen into neglect since the seventies. Its fate changed in 2003 when a host of residents and local bodies came together and conducted a

study on the area. Their research showed that local residents desperately wanted to reclaim and enjoy the waterfront, and that they were rooting for a pedestrian esplanade. Recommendations regarding the creation of a waterfront, walkways, parks and recreation grounds were undertaken for implementation since 2004.

Egmond Beach, The Netherlands

The Netherlands has a thorough monitoring system of its coastline. More than 25% of



Netherlands is below the sea level and the coast is made up of sand dunes and beaches. Authorities annually record points at every 250 metres to ensure protection. Beach nourishment using high-capacity suction dredgers is initiated wherever long-term erosion is spotted. The nourishment plan was undertaken in 1996 after about 50 metres of Egmond vanished into the sea. The local government was spiralled into action on coastal issues after a huge storm surge disaster in the fifties. The coast now boasts revetments (embankment), groynes (jetties) and beach nourishment (for conservation).

RAILWAY STATION

Ourense Ave Station, Spain



A new high-speed railway station is being designed in the city of Ourense in Galicia, situated in north-western Spain. It envisages interlinking the rail infrastructure with spanking new urban parks and

pedestrian walkways. As per the design, the station is to be transparent to give passengers travelling the railroute a dekho into the mountainous landscape even as it will be topped by a series of lightweight roof canopies. The reflective ceiling will provide natural light to the platforms and the space between each canopy will be a linear opening with natural airways. Parks are to dot the station plaza and will be interspersed with water bodies to provide refreshing walkways for pedestrians.

TOI Interactive

'BY DEFINITION, PUBLIC FUNDS MUST BE USED FOR THE PUBLIC GOOD'

Q. Do you think citizens need a better system through which complaints can be made and prompt action can be taken against parties that usurp and/or misuse open spaces?

EMAIL speakout@timesgroup.com with 'Rights' in the subject line

SMS Type **SO** <space> **RIGHTS Y OR N** <space> your views and name. SMS to **58888**

LOG ON to timesofindia.indiatimes.com & visit the Speak Out section

● You can also share your views in the 'Mumbai' section of timesofindia.indiatimes.com ● Or log onto **'The Times Of India'** page on Facebook

The BMC discourages citizens who want to adopt open spaces from using the funds of elected representatives to maintain the spaces. We asked readers on Saturday if public funds should be used for public spaces. Here are some responses:

Public funds must be allocated for public spaces. Today, it's becoming very difficult for children to play outdoor games as there are no playgrounds available for them. All these open spaces are either blocked or their condition is very poor. Proper management is required. —**Aman Sharma** | MUMBAI

The question of whether citizens should be allowed to use public funds for open spaces crops up only

because our democratically elected leaders have failed again and again to deliver. Let's get real. Unless there is really good leadership involving selfless social workers not affiliated to any political party, allowing public funds to be used by citizens would not be a proposition worth it. Therefore, putting the idea into practice is not as easy as it appears. —**Ramesh N. Hasgekar**

By definition, public funds must be

used for the public good. If the public good is served by encouraging more open and green spaces in our increasingly claustrophobic city, where lies the crime in letting funds be used thus? Any public servant such as an MLA, corporator or bureaucrat found guilty of impeding the process of improving our open spaces should be sentenced to 15 days solitary confinement in a small windowless cell. That will teach them. —**Xerxes Aga**



The law does not really protect open spaces.

The provision to permit around 15-20% construction on open space should be scrapped as this is used to misguide people. An open space should be allowed to be left open to the sky with no construction whatsoever. If at all need be, it should be a temporary, ancillary structure. **D M Sukhtankar**



GAVEL FOR GREEN OTHER KEY HC CASES

● In the **national park** litigation, initiated by Debi Goenka of the Bombay Environmental Action Group (BEAG), the HC in 2003 ordered the removal of 70,000 encroaching structures, rehabilitation of 11,000 illegal dwellers, construction of a 98km boundary wall and a ban on illegal quarrying across 200 acres. In subsequent orders, another 14,000 people had to be rehabilitated. Till now, about 50,000 structures have been removed, 9,000 people relocated to Chandivli (not all actually left the park) and only 30 km of wall have been built.

● A PIL filed by BEAG to **preserve mangroves**, especially in Andheri, Goregaon, Malad, Malvani and Kanjurmarg, led to a landmark verdict in 2005. The HC placed a "total freeze on cutting and destruction of mangroves across the state" and sought their mapping and notification as "protected forest". The state in 2007 identified 60 sq km of mangroves, only to later whittle this down to 20 sq km as various authorities argued that "mangrove destruction is necessary for development and prevention of floods".

● In 2004, an HC bench headed by Justice A P Shah stayed a proposal to commercially exploit a part of the 226-acre **Mahalakshmi Race Course**. The court called it a "matter of grave concern and against public interest". The Royal Western India Turf Club had entered into an agreement with a private developer, Pegasus Infrastructure, to set up a hotel, convention centre, service apartments and golf course. The club was to get Rs 135 crore and other royalties.

● Last but not least, the high court halted the sale of five **NTC mill lands** in the heart of the city in 2005. The scheme was for 600 acres of land. The modification in 2001 of the crucial Development Control Regulation 58 significantly reduced open spaces the city was to get, said Goenka. The matter went to the SC, which set aside the HC verdict and allowed a three-way split of open lands (non-built-up lands) between the developer, Mhada (for public housing) and BMC (for open spaces).

In 10 yrs, HC battled for 33,000 green acres

Judiciary Has Often Stepped In To Stop The Plunder Of Open Spaces In The Mumbai Region

Swati Deshpande | TNN

A decade ago, a tiny two-paragraph court order packed one of the mightiest punches for a city starved of open spaces. An interim command, it halted the Slum Rehabilitation Authority's plan to let developers dig into plots reserved for gardens, parks and playgrounds.

A vigilant NGO, CitiSpace, challenged as "flawed and illegal" the new state policy to allow slum rehabilitation on reserved open spaces and the Bombay High Court responded with matching urgency. In July 2002, the court said, "Until further orders, no new rehabilitation scheme (is) to be sanctioned without permission of this court, on open spaces reserved for gardens, parks, playgrounds, recreational spaces, maidans, pavements, roads and carriageways." The order, faded from public memory, remains interim, but still stands as a protective shield against the plunder of precious public playgrounds and parks already encroached upon.

The next victory came a year later, when the HC rejected the state's ambitious plan to rehabilitate nearly 7,000 slumdweller who were spread across 46 pockets and 180 acres of the vast Aarey Milk Colony, Goregaon. The plan was to house them on 50 acres of the colony's No Development Zone (NDZ).

The high court has been saving the Mumbai region's greenery one Public Interest Litigation (PIL) at a time. In the last decade alone it has single handedly protected, prevented construction on or removed encroachments from over 33,000 acres — an area that would cover 1,500 Oval Maidans. The land includes 15,000



Without the HC orders, the national park would have been overrun by encroachers and the mangroves wiped out by builders. But the authorities have been lax in implementing the orders

—**Debi Goenka** | ENVIRONMENTAL ACTIVIST WHO HAS FILED PILS

Politicians have played a major role in ensuring that the city is starved of open spaces. Would Juhu beach have ever been cleaned and beautified if the HC passed no orders? The citizens' only hope is the judiciary

—**Gautam Patel** | COUNSEL WHO HAS ARGUED FOR PILS



acres of mangroves in Mumbai, Navi Mumbai and Thane, 50 acres of Aarey NDZ, parts of the 226-acre Mahalakshmi Race Course and 17,500 acres of the national park in Mumbai and Thane.

The major battles include the one that started in 1995 to rid the Sanjay Gandhi National Park—35 times the size of New York's Central Park—of massive encroachment and illegal quarrying, and the very recent scathing indictment of former chief minister Vilasrao Desh-



LONG, WINDING STRUGGLE: Citizens have had to fight in court to save mangroves

mukh for the allotment of 20 acres of NDZ in Aarey Milk Colony to filmmaker Subhash Ghai's film school Whistling Woods International. In between, the judiciary played a key role in monitoring man-

groves, changes to Development Control Rules, changes in land reservation and sales of mill lands. It also beautified beaches and protected the race course from being home to cranes instead of horses.

The Supreme Court has overturned a few of the verdicts passed by the high court, but also upheld various others. Juhu and Girgaum beaches, both "important public spaces", as the high court termed them, would still have been dens of crime and grime had the court not stepped in. HC judges visited both beaches to take stock of problems. In 2001, high court judges A P Shah and S J Vazifdar appointed a committee to beautify and monitor Girgaum Chowpatty. Nearly 50 food stalls that littered the beach were organized into a bhel plaza. The court passed final orders in 2005, accepting guidelines to halt further encroachments and prevent political rallies and giving a thumbs-down to the state's plea to permit "social" functions on the beach 60 days a year. Justice Shah had observed, "Chowpatty is one of the few scenic spots in the city which can be enjoyed by the citizens of this overcrowded city."

Juhu beach got a makeover after the HC ordered the demolition of walls erected by beachside bungalows, housing societies and hotels and the removal of encroachments in 2005. The following year it gave its approval to a Rs 2-crore beautification scheme chalked out by architect P K Das for the 4km sandy sea-face. It was a three-year battle waged by the Save Juhu Beach committee and others.

More than anything else, it was the battle to get open spaces for Mumbai from the sale of mill lands that pitted builders against citizens, activists and environmentalists. While the Supreme Court set aside the HC verdict in the case, the words of HC Justice S Radhakrishna, who quoted writer Aldous Huxley, still ring in the ears. Radhakrishna said if Mumbai is deprived of lung space, the city may get a "next generation full of idiots and morons". "We should not forget the duty of the present generation to posterity for playgrounds and housing," he said.