

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Execution Application No. 16 of 2016  
(M.A. NO. 825/2016 & M.A. NO. 826/2016)  
IN**

**Original Application No. 270 of 2013**

**K.C. Bhargava & Anr. Vs. UOI & Ors.**

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

**Present:** Applicant / Appellant : Mr. Prafulla Kumar Behera, Adv.  
M.A. 825 and 826 of 2016 : Mr. Praveen H. Parekh, Sr. Adv., Mr. Vishal Prasad and Ms. Ritika Sethi, Adv.  
Respondent Nos. 1 : Mr. Vikas Malhotra, Adv.  
Respondent No. 2 : Mr. Anil Panwar, Sr. Adv. with Ms. Manikumari, Adv.  
Respondent No. 3 & 5 : Mr. Tarunvir Singh Khehar, Adv., Ms. Guneet Khehar, Adv., Ms. Japnaam Bindra, Adv.  
Respondent No. 6 : Mr. Sanjeev Kumar Jha, Adv.  
For S.I. : Mr. Nambat Ram, P.S. Mandir Marg, ND.

	<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
	<b>Item No.14</b> <b>August 26, 2016</b> <small>AM</small>	<p style="text-align: center;">Heard. Perused record.</p> <p>The order under Execution dated 03.03.2015 was passed in O.A. No. 270/2013 seeking demolition of illegal and unauthorized construction works done in the part of Central Ridge forest land ad measuring 7.5 acres and lying adjacent to Birla Mandir, NCT of Delhi. Original Application raised issue of enforcement of legal right relating to Environment arising from implementation of Forest (Conservation) Act, 1980. Having finally disposed of O.A No. 270/2013 with order dated 3<sup>rd</sup> March, 2015, presently under execution the question of it being set aside or modified by us in execution proceedings does not arise.</p> <p>L&amp;D Office, Union of India and the Department of Forest of the Government of NCT of Delhi took steps for demarcation of the land in order to identify the Forest land required to be vacated of the encroachments. The present applicant in M.A. No. 826/2016 Ms. Suman Devi posing herself as the main Trustee of Pracheen Mahamai and Bhairo Mandir Trust- the</p>

applicant no. 1 in M.A No. 826/2016 moved the Hon'ble Supreme Court of India in Civil Appeal Diary No. 26758 of 2016 (Pracheen Mahamai and Bhairo Mandir Trust and Ors. Vs. K.C. Bhargava & Anrs.) seeking permission to file appeal and condone delay in filing the appeal against the order under execution. The Hon'ble Supreme Court of India granted permission to file appeal and condoned the delay. Notice was issued by the Hon'ble Supreme Court with the liberty to the Appellants therein to approach the Tribunal with an appropriate application. The Hon'ble Supreme Court stayed demolition in order to enable the appellants therein to approach us within one week with an appropriate application and further directed us to dispose of the application so made preferably within a period of two weeks thereafter- vide order dated 11.08.2016 in Civil Appeal (Dairy) No. 26758 of 2016.

Availing this liberty granted to approach us and move an appropriate application, Ms. Suman Devi and Pracheen Mahamai and Bhairo Mandir Trust moved applications- M.A. No. 825/2016 for impleadment and M.A. No. 826 of 2016 for stay to the demolition.

These applications were placed before us on 19.08.2016 along with application M.A. No. 821 of 2016 moved by the Department of Forest seeking extension of time to carry out the demolition of structures standing in the forest area. After hearing Learned Counsel appearing on behalf Ms. Suman Devi and Pracheen Mandir and Bhairo Mandir Trust, we took cognizance of the order passed by the Hon'ble Supreme Court of India and listed the matter for further consideration on 22.08.2016 (erroneously recorded in the order dated 19.08.2016 as "22.09.2016").

On 22.08.2016, we directed Applicants in M.A. No. 825 of 2016 and M.A. No. 826 of 2016 to place before us the facts concerning locations of the structures in question vis-s-vis description of the land in terms of Khasra No./ Khatta No. etc. in form of an affidavit vide order dated 22.08.2016. Case was posted for further consideration on 24.08.2016.

On 24.08.2016, the applicants in M.A. No. 826 of 2016 filed additional affidavit dated 24.08.2016 revealing before us the facts concerning the Trust deed dated 29.09.2011 bringing into existence the said Trust, Bank account opened on 27.03.2016, Electricity Bill dated 29.12.2016, Telephone Bill dated 09.02.2016, Voter-ID dated 28.01.2013, Aadhar Card, all in the name of Suman Devi the applicant No. 2 in M.A. No. 826/2016. Pertinently, nothing has been revealed by them regarding the facts which we called for vide order dated 22.08.2016. Considering the facts revealed and the case put forth by them, we allowed them to intervene in the present execution application. M.A. No. 825 of 2016 was thus Disposed of.

Today, another application reiterating the facts earlier asserted for direction to provide the applicants with the complete pleadings in O.A. No. 270 of 2013 and in Execution Application No. 16 of 2016 and for further directions to the Respondent No. 1 Ministry of Environment, Forest and Climate Change, Government of India and Respondent No. 2 Land and Development Officer to provide the necessary details about the status and descriptions including the Khasra No. and the land in question has been placed before us. Let this application be registered and numbered. However we gave patient hearing to the parties including the interveners. We took heed of the

fervent plea made by the intervener to provide them with the pleadings in O.A. No. 270 of 2016. Position in Law of the Interveners in the Execution Application is nothing better than the one who obstructs the execution proceedings in the Civil case under Order XXI Rule 97 and claims determination of his/her right, title or interest in the property in question in Execution proceedings as per Order XXI Rule 101 of the CPC, 1908. The interveners must, therefore, come up with their case spelling out their, right title or interest in the land in question in the present execution proceedings, particularly, in the matter of the kind concerning the enforcement of the legal right to the Environment before us, with their right, title or interest in the Forest land.

For quick reference the relevant provision in the CPC, 1908 are quoted herein below:

Order XXI Rule 97

**97. Resistance or obstruction to possession of immovable property.**- (1) *Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Court complaining of such resistance or obstruction.*

(2) *Where any application is made under sub-rule (1), the court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.*

Order XXI Rule 101

**101. Question to be determined.**- *All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the court dealing with the application, and not by a separate suit and for this purpose, the court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions.*

Pertinently, the interveners have revealed their complete case as the persons occupying the portion of land between the boundary wall of Central Ridge (Forest Land) Birla Mandir

Trust and not the portion of 7.5 acres of land of Central Ridge (Forest Land) for last over 50 years. The case thus expressed is unequivocal in as much as the interveners assert that it is outside the area of Central Ridge (Forest Land). No issue is thus raised about the forest land which needs to be freed of encroachment.

Interestingly, the story of the interveners begins from the Trust Deed dated 29.09.2011. There is no reference to any land and or any right, title or interest in any immovable property in the Trust Deed dated 29.09.2011 annexure A-1 to the additional affidavit dated 24<sup>th</sup> August, 2016 except a statement that the trust commenced with the endowment of Rs. 1,100/-. All other documents such as passbook, electricity bill, telephone bill, voter ID, aadhar card may at the best speak about the presence of the intervener- applicant no.2 of M.A. No. 826/2016 at the address given therein and nothing more. No document evincing right, title or interest in any immovable property, much less the Central Ridge Forest Land, NCT of Delhi has been produced by the interveners.

Grant of application seeking direction to provide copies of the pleadings in the Original as well as Execution application and direction to the Ministry of Environment, Forest and Climate Change, Government of India and L & D Office for giving the particulars would mean nothing so far as the controversy before us and would only protract the proceedings without any valid reason, particularly when the interveners have unequivocally revealed their complete case as aforesaid. We, therefore, reject this application moved today.

We do not find any right title or interest of the interveners Ms. Suman Devi and Pracheen Mandir and Bhairo

Mandir Trust in the Central Ridge Forest Land, Birla Mandir, NCT of Delhi. No case for obstructing the execution proceedings has been made out. We do not see any reason for granting stay to the demolition as solicited in M.A. No. 826 of 2016.

M.A. No. 826 of 2016 and application for direction filed today before us are dismissed and disposed of accordingly. However, in order to allow the applicant interveners to seek further remedy before the Hon'ble Apex Court we grant stay to the demolition of the structures for one week.

List the matter on 31<sup>st</sup> August, 2016.

Now, we are informed that the application for directions filed today has been numbered as M.A. No. 878/2016 which stands disposed of as aforesaid.

.....,JM  
(U.D. Salvi)

.....,EM  
(Ranjan Chatterjee)

