

ITEM NO.14

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 4677/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

In RE.: SEALING ISSUE

IA NO. 43487/2018

(APPLN. FOR DIRECTIONS ON B/O GOVT. OF NCT OF DELHI)

Date : 18-07-2018 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Ranjit Kumar, Sr. Advocate (A.C.)
Mr. A.D.N. Rao, Advocate (A.C.)
Ms. Anitha Shenoy, Advocate (A.C.)
Mr. Rishi Raj Sharma, Adv.
Ms. Srishti Agnihotri, Adv.
Mr. Sudipto Sircar, Adv.
Ms. Remya Raj, Adv.
Ms. Rashmi Nandakumar, Adv.

For Petitioner(s) Petitioner-In-Person

For Respondent(S) Mr. K.K. Venugopal, AG
Mr. A.N.S. Nadkarni, ASG
Mr. S. Wasim A. Qadri, Adv.
Mr. R. Balasubramanian, Adv.
Mr. Sachin Sharma, Adv.
Mr. Pranay Ranjan, Adv.
Mr. D.L. Chidanand, Adv.
Mr. Ritesh Kumar, Adv.
Mr. Zaid Ali, Adv.
Mr. Amit Sharma, Adv.
Mr. Raj Bahadur, Adv.
Mr. B.V. Balram Das, Advocate
Mr. G.S. Makker, Adv.

DDA

Mr. Maninder Singh, ASG
Ms. Garima Prashad, Adv.
Mr. G.S. Oberoi, Adv.
Mr. Prabhas Bajaj, Adv.

CPCB	Mr. Vijay Panjwani, Adv.
SDMC	Mr. Sanjiv Sen, Sr. Adv. Mr. Praveen Swarup, Advocate Mr. Sayan Ray, Adv. Mr. Ajay Kr. Giri, Adv.
NDMC	Mr. Anil Grover, AAG Mr. Shivam Kumar, Adv. Mr. Satish Kumar, Adv. Mr. Sanjay Kr. Visen, Adv.
Delhi	Mr. D.N. Goburdhun, Adv. Ms. Pallavi Chopra, Adv. Mr. Surya Kant, Advocate

UPON hearing the counsel the Court made the following

O R D E R

The Vice Chairman of the Delhi Development Authority and the Deputy Commissioners of the South Delhi Municipal Corporation, West Zone and Central Zone are present in the Court today. They need not be present on the next date of hearing.

Submissions of the learned Attorney General

We have heard the learned Attorney General as well as the learned *Amicus* on various issues raised by the learned Attorney General. It is submitted as follows:

1. Launch of Mobile Application

The DDA has launched a mobile application on 9th July, 2018. It is stated that the purpose of this Mobile App is to receive complaints from the general public of unauthorized constructions / encroachments in Delhi.

It is stated by the learned Attorney General that 431 complaints have been received so far and action has been taken in respect of 138 complaints which includes demolition, removal and sealing of unauthorized constructions / encroachments.

In our opinion, adequate publicity should be given to this Mobile App by the Delhi Development Authority with immediate effect so that if there is any grievance that the general public in Delhi has with regard to unauthorized constructions / encroachments, it may be brought to the notice of the Delhi Development Authority and the Special Task Force for remedial action. It is directed accordingly.

2. Office Memorandum dated 23.05.2018

An Office Memorandum dated 23.05.2018 has been placed before us. This deals with Action Plan for monitoring of all construction activities in Delhi and fixing of responsibility in case of violations of Master Plan for Delhi, Unified Building Bye Laws and other illegal construction activities.

The learned Attorney General submits that the Office Memorandum issued by the Ministry of Housing and Urban Affairs, Government of India is being implemented faithfully. We expect that it will continue to be implemented faithfully.

However, we would like to make it clear that in para

1(ii) of the Office Memorandum wherever any irregular or unauthorized construction activity is noticed and booked for taking action in accordance with law that unauthorized or irregular construction activity should be stopped by the concerned authorities with immediate effect. It is directed accordingly.

In the Office Memorandum dated 23.05.2018, it is stated in para 1(viii) as follows:

Besides, the punitive/penal action against the officer responsible for illegal / unauthorized construction, the STF would direct the concerned local body to take the unnecessary consequential punitive action for removal/demolition/sealing etc. against the illegal / unauthorized construction and other remedial and ameliorative action including action against builder / contractor and architect, whoever is responsible.

In our opinion and we direct accordingly, the action proposed by the Government of India against builder / contractor and architect, whoever is responsible should include blacklisting of that builder / contractor or architect as the case may be.

Appropriate guidelines should be framed in respect of blacklisting within a period of two weeks from today and duly notified.

The learned *Amicus* may give suggestions in this regard to the learned ASG who will take up the matter with the concerned Ministry.

It is submitted by the learned Attorney General that

wherever there is any unauthorized or irregular construction, it is necessary to issue show cause notice to the alleged defaulter.

In our opinion and we direct accordingly, that the show cause notice be issued not giving more than 48 hours time (excluding holidays) to the alleged defaulter to respond to the show cause notice. The learned *Amicus* agrees with this submission and submits that in appropriate cases the premises wherever unauthorized construction activity exists, the service of show cause notice should be made, if necessary, by affixation. We direct accordingly.

After the show cause notice is served on the alleged defaulter and the response received within 48 hours (excluding holidays), necessary action should be taken most expeditiously in accordance with law.

3. It has been pointed out by the learned *Amicus* that the Forum of MCD Engineers has mentioned that when action is sought to be taken for demolition etc., there are threats given to the officers.

We direct that the adequate police protection should be given whenever such activity of demolition or sealing etc. is carried out by the concerned authorities.

There is no point in saying that the situation is volatile and the proposed action should be postponed. It is a law and order situation and it is the responsibility

of the police authorities to ensure that law and order is maintained.

It is in this context we make it clear that adequate police protection should be made available to the officers when they are performing their statutory duties.

4. The Forum of MCD Engineers has made a representation to the learned *Amicus* to the effect that on a particular action, a threat was given by Mr. Mukesh Suryan, Chairman, Wards Committee, Najafgarh Zone.

The allegation is that he has intervened and prevented the officers from carrying out their statutory duties. Notice is directed to be issued to Mr. Mukesh Suryan returnable on 24th July, 2018. The Registry will ensure that notice is served upon him. Dasti, in addition.

We direct the personal appearance of Mr. Mukesh Suryan, Chairman in Court on 24th July, 2018 to respond to the allegation made against him. A copy of the representation without disclosing the name of the sender should be served on Mr. Mukesh Suryan so that he can deal with the allegation made against him.

The representation and newspaper articles say that Mr. Vishvendra Singh, Deputy Commissioner, Najafgarh was transferred within hours at the instance, as claimed of Mr. Mukesh Suryan.

The allegation of the transfer of Mr. Vishvendra

Singh, Deputy Commissioner, Najafgarh has been denied by Mr. Sanjiv Sen, Sr. Adv. stating that the transfer was a routine transfer. An affidavit may be filed in this regard and relevant file of the transfer of Mr. Vishvendra Singh, Deputy Commissioner, Najafgarh should be produced for perusal on 24th July, 2018.

5. Possibility of Digital Mapping

The role and function of the Special Task Force is outlined in the Office Memorandum dated 25.04.2018 issued by the Ministry of Housing and Urban Affairs, Government of India. The Special Task Force should explore the possibility of digital mapping in Delhi with the assistance of NIC / ISRO or any other department of the Government of India.

6. Archaeological Survey of India (ASI)

It has been suggested by the learned *Amicus* that a senior officer of the Archaeological Survey of India (ASI) should be co-opted in the Special Task Force.

The learned Attorney General has no objection to this. Accordingly, we direct that a senior officer of the ASI should be co-opted in the Special Task Force as a member.

We make it clear that there will be no stoppage of sealing action or demolition etc.

It was pointed out in passing by the learned Attorney General that there are a large number of civic problems in Mumbai and Bangalore as well, apart from other cities.

The steps taken in Delhi, if they are implemented faithfully and sincerely, perhaps might make a difference in Delhi.

Proceeding on this presumption, we are of the view that it would be appropriate for the Ministry of Housing and Urban Affairs, Government of India to issue an advisory to other States, particularly, to the States of Maharashtra and Karnataka to take steps similar to the steps taken in Delhi so that the civic facilities are improved and inconvenience caused to the residents of these cities and other metropolitan cities is reduced.

List the matter on 28th August, 2018.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER

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SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 4677/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IN RE: KANT ENCLAVE MATTERS

- 1) I.A. NOS. 2310/2008
(FOR INTERVENTION AND DIRECTIONS/CLARIFICATION OF CT'S ORDER DT. 14.5.2008)
- 2) IA NOS. 2378-2379/2009
(FOR STAY AND PERMISSION TO FILE OBJECTIONS TO THE CEC REPORT)
- 3) IA NO. 2269
(FOR DIRECTIONS)
- 4) IA NO. 2270 (FOR CLARIFICATION OF CT'S ORDER)
- 5) IA NO. 2393
(FOR DIRECTIONS)

WITH

IA NOS. 2381-2384

(APPLNS FOR IMPLEADMENT, DIRECTION, PERMISSION TO FILE OBJECTIONS AND EXEMPTION FROM FILING C/C OF CEC REPORT DT. 15.1.2009 ON B/O ASHA UPADHYAY AND ORS.)

I.A. Nos. 2310-2311 in W.P. (C) No. 202/1995
(Applications for permission and directions)

Date : 18-07-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Ranjit Kumar, Sr. Adv. (A.C.)
Mr. A.D.N. Rao, Adv. (A.C.)
Mr. Sudipto Sircar, Adv.
Mr. Rishi Raj Sharma, Adv.

Petitioner-In-Person

For Respondent(s) Mr. Sanjay R. Hegde, Sr. Adv.

Mr. Anil Kumar Mishra, Advocate
Mr. Pranjal Kishore, Adv.

Mr. S. Wasim a. Qadri, Adv.
Mr. D.L. Chidanand, Adv.
Mr. Ritesh Kumar, Adv.
Mr. Zaid Ali, Adv.
Mr. R. Balasubramanian, Adv.
Mr. Pranay Ranjan, Adv.
Mr. Sachin Sharma, Adv.
Ms. Aarti Sharma, Adv.
Mr. Raj Bahadur, Adv.
Mr. Gurmeet Singh Makker, Advocate

Mr. Kapil Sibal, Sr. Adv.
Mr. D.C. Pandey, Advocate
Mr. Rajeev Grum, Adv.

Haryana

Mr. Anil Grover, Adv.
Mr. Shivam Kumar, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kumar Visen, Advocate

Mr. Shivaji M. Jadhav, Advocate

Mr. T.V. George, Advocate

Mr. S.B. Upadhyay, Sr. Adv.
Mr. Pawan Upadhyay, Adv.
Mr. Sarvjit Pratap Singh, Adv.
Mr. Nishant Kumar, Adv.
Ms. Sharmila Upadhyay, Advocates

UPON hearing the counsel the Court made the following

O R D E R

Heard in part.

List the matter tomorrow (19.07.2018) as a part heard matter.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER