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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 660/2020 & CM APPL. 26651/2020**

NEW DELHI NATURE SOCIETY

..... Petitioner

Through: Mr. Aditya N. Prasad, Advocate.

versus

VINAY SHEEL SAXENA & ORS.

..... Respondents

Through: Mr. Shourya Dasgupta, Advocate for
Mr. Shadan Farasat, ASC.

Ms. Punya Rekha Angara, Advocate
for Mr. N. Hariharan, Sr. Advocate.

Mr. Unmukt Gera, Advocate for Mr.
Gautam Narayan, ASC GNCTD.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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11.07.2022

The hearing has been conducted through hybrid mode (physical and virtual hearing).

CM APPL. 5145/2021(By petitioner for directions)

1. The learned counsel for the petitioner draws the court's attention to notice being issued to the application on 10.02.2021. A short reply has been filed by Delhi Police. It however, does not allude any steps taken by the police to stop or prevent damage to trees. Albeit work was subsequently stopped for the day, the project for Reinforced Cement Concrete (RCC) storm water drain was subsequently completed by



PWD. Despite the restraining order dated 03.09.2020 of the Tree Officer under section 20 of The Delhi Preservation Of Trees Act, 1994 being in force. It is another matter though, that the Tree Officer regularized the breach of the statute and damage to the trees even before the project was completed. This regularization by the Tree Officer, is in the face of order passed by this court in W.P.(C) 1772/2007 dated 19.09.2007, W.P.(C) 11162/2009 dated 10.02.2010 and NGT order in O.A. 82 of 2013 dated 23.04.2013 and would require further examination.

2. The reply of Delhi Police states *inter-alia* as under:

“ ...

3. *It is further submitted that SI Anand Kumar Jha along with beat staff immediately went to the site and asked the Public Works Department to stop the ongoing work near the trees. The beat staff then proceeded to verify whether the PWD staff at the site were authorised to carry on the work, and inspected their permission in this regard, and it was found that they were indeed authorized to carry out repairs to the drains. At this juncture, the SI and the beat staff did not take any further action against PWD personnel, as they assumed that, being an authorised government agency and consequently bound by the law, their actions were legal.*

4. *However, the PWD has subsequently been asked to stop ongoing work around the trees, and no such work has taken place except on 05.02.2021 when emergency work had to be undertaken due to a drain being non-functional, leading in waterlogging, causing damage to the neighbourhood, as well as to the standing trees themselves. The officials of the PWD have also been asked to exercise more caution in the future to ensure that no damage is caused to the roots of the trees. The beat staff have also been briefed in this regard.*

“ ... ”



3. The inaction, rather restraint from due action by the police is incongruous with the duty as mandated under section 22 of The Delhi Preservation of Trees Act, 1994, which reads *inter-alia*, as under:

“ ...

22. Contravention of Act to be reported by certain officers.- It shall be the duty of every Forest Officer, Panchayat Secretary, Police Constable or any officer superior to him and every officer of the Department of Agriculture, Horticulture, Block Development and Revenue

(a) to give immediate information coming to his knowledge of any contravention of section 8 and of preparation to commit such contravention to the Tree Officer or the Deputy Conservator of Forests;

(b) to take all reasonable measures in his power to prevent such contravention which he may know or has reason to believe that it is about or likely to be committed.

... ”

(emphasis supplied)

4. The petitioner contends that albeit the police was informed that there was a restraining order issued by the Tree Officer, yet the PWD continued to breach it. Indeed, the I.O. refused to accept the petitioner's complaint. The I.O. only diarized the complaint and gave a receiving endorsement on it, with DD No. 22A. The petitioner has averred that unwarranted and rude statements had been made by the I.O. against both the petitioner and his counsel.
5. The learned counsel for the petitioner further submits that it was the duty of the police officials, including those who came on the petitioner's complaint in the PCR vehicle as well as the SHO and the



I.O. and other police officials associated with the case, to prevent the contravention to law and to protect the trees under the aforesaid order issued by the Tree Officer; the police willfully did not assist the Tree Officer and chose to side with the PWD officials, who were in clear contravention of all judicial orders as well as the order of the Tree Officer.

6. The learned counsel for the petitioner also refers to orders passed by the court apropos programmes by GNCTD, for sensitization of police officials as directed on 10.02.2021, 04.03.2021 and 08.03.2022.
7. The police is silent on the allegations apropos the statements made by the Additional SHO, PS: Lodhi Colony. Let the DCP concerned look into the matter and an appropriate response be filed with his approval.
8. List on 21.07.2022.

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9. List on 21.07.2022.

NAJMI WAZIRI, J

JULY 11, 2022

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