

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A.NO.41-43 of 2007

IN

WRIT PETITION NO.(C) NO.653 OF 1994

WASIM AHMED SAEEDPetitioner(s)

VERSUS

UNION OF INDIA & ORSRespondent(s)

O R D E R

I.A. No.43/2007:

(National Highway Authority of India vs. Union of India)

Heard Mr. V.B. Joshi, learned counsel for the
applicant and Dr. R.G. Padia, learned Senior Counsel for
the State of Uttar Pradesh.

This I.A. has been filed by the National Highway
Authority of India in the pending Writ Petition (Civil) No.653
of 1994 with the following prayer:

"(a) allow the application of the applicant and permit the felling/cutting of the trees by the Forest Department, U.P. Government/ applicant in the State of Uttar Pradesh, required for the improvement, operation and maintenance including strengthening and widening of

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existing 2-Lane road to 4-Lane carriageway from KM 17.756 to KM 42.525 of NH-11 (Agra-Jaipur Road) and as stated in letter dated 4.7.2006, Annexure-I and letter dated 18.8.2006, Annexure-II."

The above application was preferred for appropriate direction and for granting permission by this Court for felling of trees which are necessary for the improvement, operation and maintenance including strengthening and widening of existing 2-Lane road to 4-Lane carriageway from KM 17.756 to KM 42.525 of National Highway no. 11, Agra-Jaipur Road, in the State of Uttar Pradesh. Along with the

application, the communication from Environment & Forest
Ministry, Regional Officer (Central Zone), Government of
India, Lucknow to the Chief Secretary (Forest), Government
of Uttar Pradesh, Lucknow, letter no.8B/UP/06/40/2006/
FC/281 dated 4.7.2006 and other correspondence No.
Forest Division-2, Lucknow between Deputy Secretary,
Govt. of Uttar Pradesh and the Nodal Officer & Forest
Conservator, Uttar Pradesh, Lucknow dated 18.8.2006 and
the letter no.1593/14-1 Agra dated October 12, 2006 from
Office of Divisional Director, Social Forestry Division, Agra
addressed to the Project Director, National Highway

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Authority of India, Kailash Bihar, Agra, have been filed.

The Affidavit on behalf of the State of Uttar Pradesh,
sworn by one Mr. Dharm Singh, presently posted as Sub-
Divisional Forest Officer, Agra, U.P. has also been filed. In
view of the facts and circumstances stated in the said

affidavit, the Uttar Pradesh Government prays for a

direction to be issued to the National Highway Authority i.e.

the applicant herein for compliance of the terms and

conditions as laid down by the Government of India as well

as the State Government of U.P. Other relevant documents

have also been filed as Annexures to the said I.A.

The National Highway Authority of India has also

filed an undertaking in this Court. The Undertaking reads

thus:

"This is to undertake that National Highway Authority of India is acquiring 51.91 Hectare of protected Forest land and 2.081 Hectare of Horticulture land for widening & strengthening of NH-11 in Uttar Pradesh portion of the road from Km.18 to Km.42.525. A total of 4688 Trees of different species (Annexure-A) in the protected Forest Land and 1675 Trees of different species (Annexure-B) in the Horticulture Land will be cut.

National Highways Authority of India will acquire a

10 Mtr. Width strip of land towards the widening side of the road, will do a compensatory forestation to the extent twice the number of trees being cut in the strip. Action, in this line, is under process as per U.P. Government GO No.943 dated 14th February, 2003. The detail of species of trees to be planted will be finalized by the Forest Department."

The Undertaking and Annexures shall form part of this order.

It is seen from the communication dated 18th August,

2006 (supra) that the terms and conditions issued by the

Government of India, Environment and Forest Ministry have

been incorporated as Clause (1) to Clause 21. The

conditions nos.18 & 19 read thus:

"18. Steps will be taken as per Notifications dated 22.11.2005 and 3.5.2006 for making available the land having width about 10 mtrs. at the side of the road for afforestation.

19. Land for compensatory afforestation be made

available on the side of the Highway and not at any other place, so that green belt alongside the road could be developed through line afforestation in future."

The learned counsel for the applicant represents to this Court that the conditions nos.18 & 19 would be strictly

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complied with, for that an undertaking has also been given.

The Undertaking shall form part of this present I.A.

It is seen from the communication dated 12th October, 2006, from Forestry Division, Agra to the Project Director, National Highway Authority of India, Agra, that since lots of trees are to be cut standing on the above road, afforestation is being carried under various projects in the District Agra as per the directions issued by this Court to protect from Taj Mahal from pollution. Thus, prior permission should be obtained from this Court to bring the cutting of the above trees to the notice of this Court.

Considering the entire facts and circumstances

mentioned in the I.A. and other documents, we allow the application and grant the permission as prayed for.

I.A. No.43 is disposed of accordingly.

IA. Nos.41 & 42 in the Writ Petition are adjourned for two weeks.

.....J.

(Dr. AR. LAKSHMANAN)

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.....J.

(ALTAMAS KABIR)

New Delhi,

February 22, 2007.

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ITEM NO.3

COURT NO.7

SECTION PIL

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

RECORD OF PROCEEDINGS

IA 41-43/2006 in WRIT PETITION (CIVIL) NO(s). 653 OF 1994

WASIM AHMED SAEED

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(With appln(s) for directions and impleadment and office report)

Date: 22/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Petitioner(s) M/S J.B. Dadachanji & Co.,Adv.
Mr. Anis Suhrawardy, Adv.

For Respondent(s) Dr. R.G. Padia, Sr. Adv.
Mr. Mukesh Verma, Adv.
Mr. Anuvrat Sharma ,Adv
(For State of U.P.)

Mr. T.S. Doabia, Sr. Adv.
Mr. A.D.N. Rao, Adv.
Mr. T.N. Khan, Adv.
Mr. V.K. Verma, Adv.
Mr. D.S. Mahra, Adv.
Mr. B. Krishna Prasad,Adv.

Mrs Anil Katiyar ,Adv
Mr. Anis Suhrawardy ,Adv
Mr. P. Parmeswaran ,Adv
Ms. Sushma Suri ,Adv
Mr. Sudhir Kulshreshtha ,Adv
Mr. Shakil Ahmed Syed ,Adv
Mr. Prashant Chaudhary ,Adv
Mr. B.V. Balaram Das ,Adv

Mr. V.B. Joshi, Adv.
Mr. M.V. Kini, Adv.

Mr. Ravi Kini, Adv.

(For Applicant in IA 43)

Mr. Ajay K. Agrawal ,Adv

Ms. Alka Agrawal, Adv.

Ms. Anamika Agrawal, Adv.

(For Applicant in IA 41-42)

UPON hearing counsel the Court made the following

O R D E R

IA No.43/2006 (Appln. for Direction): Heard Mr. V.B. Joshi, learned counsel for the applicant and Dr. R.G. Padia, learned Senior Counsel for the State of Uttar Pradesh. IA 43 is disposed of in terms of signed order placed on the file.

IA No.41 & 42 in the writ petition are adjourned for two weeks.

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(A.D. Sharma)

(Phoolan Wati Arora)

Court Master

Court Master