

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

Petition(s) for Special Leave to Appeal (C) No(s). 35374/2010

(Arising out of impugned final judgment and order dated 30/07/2010 in WP No. 10647/2009 passed by the High Court of Delhi at New Delhi)

DDA

Petitioner(s)

VERSUS

M/S KENNETH BUILDERS PVT LTD & ORS. Respondent(s)  
(With application for c/delay in filing SLP and directions and vacating interim order and interim relief and office report)  
(For final disposal)

WITH

SLP(C) No. 13146/2011  
(With Office Report)

Date : 06/10/2015 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE S.A. BOBDEFor Petitioner(s) Mr. A. Saran, Sr. Adv.  
Mr. Vishnu B. Saharya, Adv.  
Mr. Viresh B. Saharya, Adv.  
For M/s Saharya & Co.

Mr. Alok Gupta, Adv.

For Respondent(s) Mr. H.N. Salve, Sr. Adv.  
Mr. Sanjeev Sen, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Ankur Saigal, Adv.  
Mr. Raghav Dwivedi, Adv.  
Mr. E. C. Agrawala, Adv.Mr. Parag Tripathi, Sr. Adv.  
Mr. Sumeet Pushkarna, Adv.  
Mr. Alok Gupta, Adv.Mr. D. N. Goburdhan, Adv.  
Mr. Abhishek Agrawal, Adv.  
Mr. Lal Ramtamma, Adv.  
Mr. Prabal Bagchi, Adv.

Mr. Gaurav Sharma, Adv.  
Ms. Sushma Suri, Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have heard learned counsel for the parties for quite some time.

Our attention has been drawn to letter dated 3<sup>rd</sup> December, 2009 issued by the Ministry of Environment and Forests (Forest Protection Division), Government of India to the Additional Solicitor General, Delhi High Court, Delhi. In the letter, it is stated that the opinion of the Ministry of Environment and Forests with regard to the land (subject matter of a writ petition filed in *M/s Kenneth Builders and Developers Ltd. v. Union of India & Ors.* in the Delhi High Court being Writ Petition (C) No. 10647/2009) is as follows:

"Keeping in view the purely legalistic position taken by DDA and exercise undertaken for identification of ridge, based upon one or more criterion decided by NCT of Delhi, as relevant for classification of any land as "ridge" in Delhi, the said piece of land measuring 14.3 ha falling in Khasra No. 444 and 445 reflected as "Gair Mumkin Pahar" in revenue land, needs to be considered as ridge in accordance to the spirit of various orders of Hon'ble Supreme Court's in WP (C) 4677/1985, morphological features and revenue records. The Hon'ble Apex Court is still looking into various aspects of protection & conservation of Delhi ridge, in WP (Civil) No. 4677/1985 from time to time. However, the Hon'ble High Court of Delhi, if deemed appropriate, the opinion of Central Empowered Committee, set up by Hon'ble Supreme Court by, may be taken".

Since there is no clarity on the question whether the land in Khasra Nos. 444 and 445, which was the subject matter of dispute in the Delhi High Court and subject matter of dispute before us, falls

in the ridge or not, we are of the opinion that it will be appropriate if the opinion of the Central Empowered Committee (CEC) set up by this Court in *Godavarman* case should be obtained.

Under the circumstances, we refer the matter to the CEC to give us an opinion in this regard at the earliest. The CEC is requested to give a report, as mentioned above, preferably before 24<sup>th</sup> November, 2015 with a copy to learned counsel for the parties.

We have also gone through the affidavit filed by Ms. Swati Sharma working as Additional Secretary to the Lieutenant Governor. It is categorically stated that neither any meeting related to this case was held in Raj Niwas on 23<sup>rd</sup> June, 2009 nor was there any official engagement relating to this case.

In an affidavit dated 5<sup>th</sup> October, 2009 filed by Mr. Prabhat Tyagi, the then Dy. Conservator of Forest (South) in the Delhi High Court in WP (C) No. 10647/2009, it is clearly mentioned in paragraph 14 that a decision was taken in a meeting held at Raj Niwas on 23.06.2009 that the whole issue with regard to the land in question should be referred to the Ministry of Environment and Forests, Government of India which has already accorded environmental clearance to the project for consideration. The decision of the Ministry shall be final and binding upon both the Department of Environment and Forests and the Delhi Development Authority.

The affidavit of Mr. Prabhat Tyagi, the then Dy. Conservator of Forest is in direct conflict with the affidavit filed by Ms. Swati Sharma, Additional Secretary to the Lieutenant Governor. Therefore, we direct Mr. Tyagi to file an affidavit explaining on

what basis the statement, as mentioned in paragraph 14 of the affidavit, was made. The affidavit be filed by Mr. Tyagi within a period of four weeks from today.

In the meanwhile, we also direct the Delhi Pollution Control Committee (DPCC) to tell us categorically whether the coming up of a residential colony in the land in question would be in violation of any of the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.

The affidavit be filed by the DPCC within a period of four weeks from today.

List the matters on 24<sup>th</sup> November, 2015.

(Meenakshi Kohli)  
Court Master

(Jaswinder Kaur)  
Court Master