

Ö,

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 5107 OF 2002

DEFENCE/GOVERNMENT OFFICIALS
SITE OWNERS ASSOCIATION

Appellant (s)

VERSUS

COMMISSIONER, BANGALORE DEVELOPMENT
AUTHORITY AND OTHERS

Respondent(s)

O R D E R

This appeal is directed against the order of the Division Bench of the Karnataka High Court in Writ Petition No.17454 of 2000 whereby the appellant's prayer for removing the encroachments made in the layout sanctioned by the Bangalore Development Authority was rejected.

We have heard learned counsel for the parties including Jamia Masjid Committee, which has been impleaded as a party by a separate order passed today in Interlocutory Application No.1 of 2010, and carefully perused the record including the documents filed by impleaded respondent along with I.A. No.1 of 2010 and reply filed by the appellant.

Since the documents, which have been placed on the record of this appeal, were not before the High Court at the time of disposal of the writ petition and the same appear to have bearing on the decision of the issues raised by the appellant, we deem it proper to set aside the order under challenge and remit the case to the High Court for fresh disposal of the writ petition. Ordered accordingly.

The appeal is disposed of in the manner indicated above.

.....J.
(G.S. SINGHVI)

.....J.

(ASOK KUMAR GANGULY)

NEW DELHI,
APRIL 15, 2011.
ITEM NO.1

COURT NO.11

SECTION IVA

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

CIVIL APPEAL NO(s). 5107 OF 2002

DEFENCE&GOVT.OFF.SITE OWNERS ASSO.

Appellant (s)

VERSUS

COMMNR. BANGALORE DEV. AUTHORITY & ORS.

Respondent(s)

(With appln(s) for recalling the court's order,impleadment as party
respondent and office report)

Date: 15/04/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. S.N. Bhat,Adv.

For Respondent(s) Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, Adv.
Mr. Khwairakpam Nobin Singh ,Adv

Mr. V.N. Raghupathy,Adv.
Mr. M. Khairati, Adv.

For Applicant(s) Mr. Guru Krishna Kumar, Adv.
Mr. Akshat Hansaria, Adv.
Mr. Abhay Kumar, Adv.
Ms. Mamta Chandel, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A. No.1 of 2010:

This is an application by Jamia Masjid Committee through its President for its impleadment as a party in C.A. No.5107 of 2002 in which order dated 7.10.2010 was passed by this Court for removing encroachment made on the land in question.

We have heard learned counsel for the applicant and the learned counsel for the appellant and carefully perused the record. Admittedly, the applicant was a party to the suit filed by the appellant in the trial Court. Therefore, the applicant should have been impleaded as a party in the writ petition. While dismissing the writ petition, the Division Bench of the High Court did take cognizance of the non-impleadment of the persons, who are alleged to have encroached upon the property and put up construction and observed:

"Petitioners have not stated in the petition who are those individuals who have encroached upon the property and who have put up the construction. If any construction put up by a person is to be removed that person is to be heard. Those persons are not named in the Writ Petition. Even if any relief could be granted by this Court unless the persons to be affected by

such order are made parties and are heard
no such order could be passed. Therefore,
we do not find merit in any of the
contentions raised in this petition and
accordingly we dismiss the same."

In view of the above, we hold that the
applicant is not only a proper, but also necessary
party for adjudication of the appeal.

The application is accordingly allowed and
the applicant is ordered to be impleaded as respondent
in the appeal.

C.A. No.5107 of 2002:

The appeal is disposed of in the manner
indicated in the signed order placed on the file.

(A.D. Sharma)

(Phoolan Wati Arora)

Court Master

Court Master

(Signed Order is placed on the file)