

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION(C) NO.109 OF 2008

IN

CIVIL APPEAL NO.4203 OF 2008
[Arising out of SLP(C)No.15362 of 2008]

LUCKNOW DEV. AUTH., LUCKNOW & ANR.

Petitioner(s)

VERSUS

OM PRAKASH SRIVASTAVA & ANR.

Respondent(s)

WITH

Conmt.Pet.(Civil)No.110/2008 In C.A.No.4203/2008[Arising out of SLP(C)No.15362 of 2008]
I.A.3 In In C.A.No.4203/2008[Arising out of SLP(C)No.15362 of 2008]

ORDER

There are three matters on board today, of which Contempt Petition(C) No.110/08 has been filed by Sahara India Commercial Corporation Limited, which is respondent No.1 in the Special Leave Petition. This application has been mentioned by Mr. Kailash Vasdev, learned senior counsel, for deletion of alleged contemnors/respondent Nos. 5 and 6 from the cause title, as the petitioner does not wish to proceed against these respondents.

Let the names of respondents Nos.5 and 6 be deleted from the array of the parties.

As indicated hereinabove, two Contempt Petitions as well as a separate
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Interlocutory Application No.3 of 2008 filed in the Special Leave Petition, are before us today for consideration. In the order passed by us on 23rd June, 2008, we had directed the parties to maintain status quo as on that date with regard to the subject matter of the Special Leave Petition and the directions passed in respect thereof. Both these Contempt Petitions arise out of the said order. The petitioners in the Contempt Petition No.109 of 2008 have alleged that Sahara India Commercial Corporation Limited had after the said order of status quo, erected a tin fencing and that in aid of the order of status quo, the same was removed by the petitioners.

As far as Contempt Petition(C)No.110/2008 is concerned, it has been contended on behalf of the Sahara India Commercial Corporation Limited, the

petitioner therein, that the tin fencing referred to above had been erected immediately after the impugned order of the High Court dated 19th June, 2008, before the order of status quo had been passed by this Court and that the alleged contemnors-respondents in the said petition had deliberately and willfully violated the order of status quo passed by this Court by removing the existing tin fencing. Accordingly, in I.A.No.3/2008 the petitioner has, inter alia, prayed for vacation of the ad interim order passed by this Court on 23rd June, 2008 and also for restoration of the temporary tin sheet fencing which existed on 23 rd June, 2008, when the order of status quo was passed. In fact, Mr. Tulsi, learned senior counsel appearing in support of the petition referred to a letter dated 23 rd June, 2008, addressed to the Chairman, Vice-Chairman and the Secretary of the Lucknow Development Authority indicating that such a tin fencing was in existence and

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that by virtue of the order of status quo it should not be touched.

Having considered the submissions made on behalf of the respective parties, we are of the view that since the Special Leave Petition is directed only against the interim order passed by the High Court, it would not be in the interest of the parties to keep the matter pending in this Court, as it will only delay the matter pending before the High Court and also lead to various other proceedings in this Court. In our view, the order of status quo which we had initially passed should supplant the interim order as passed by the High Court with certain modifications, having regard to the nature of the allegations made in the Contempt Petitions.

We accordingly, with the consent of the parties, take the Special Leave Petition on board as well.

Leave granted.

We, therefore, dispose of all these matters including the appeal by setting aside the interim orders passed by the High Court on 19th and 20th June, 2008 and direct that till the hearing of the writ petition, the parties would strictly maintain the status quo as was existing on 23rd June, 2008 with the modification that since admittedly the tin fencing was removed on 23rd June, 2008, the Sahara India Commercial Corporation Limited will be entitled to restore the said tin fencing in the place where the boundary wall originally existed under the supervision of a Special Officer to be appointed by us and in the presence of the parties. We, accordingly, appoint Mr. L. Nageswar Rao, learned senior advocate of this Court,

as Special Officer under whose supervision the restoration of the tin fencing

shall be undertaken on 28th and 29th June, 2008. The aforesaid company shall make all suitable arrangements for Mr. Rao's travel and stay in Lucknow and his return to Delhi after the restoration work. Mr. Rao is requested to submit his report of the work undertaken to the Lucknow Bench of the Allahabad High Court. Such report may be sent to the Registrar of the Lucknow Bench of the High Court by Mr. Rao.

The State administration including the District Magistrate and Senior Superintendent of Police, Lucknow, Uttar Pradesh are directed to make adequate security arrangements for the work which is to be undertaken in terms of this order and to ensure that no untoward incident takes place during the continuance of the work.

Having regard to the nature of the circumstances involved which had been very graphically indicated by Mr. Tulsi as also by Mr. Shanti Bhushan, appearing for the parties, we would request the High Court to dispose of the pending writ petition with utmost expedition. We also direct the parties not to seek unnecessary adjournments in the matter so that the same can be disposed of early. We also make it clear that we have not and we are not expressing any opinion with regard to the allegations as made by both the parties and the High Court will be at liberty to proceed with the matter and take its decision on the materials placed before it.

The appeal as also the two Contempt Petitions and I.A.3 of 2008 are disposed of accordingly.

There will be no order as to costs.

Let a copy of this order be handed over to Mr. Nageshwar Rao by tomorrow and let a copy of this order be forwarded to the Registry of the Lucknow Bench of the Allahabad High Court immediately.

.....J.
(ALTAMAS KABIR)

.....J.

NEW DELHI;
25TH JUNE, 2008.

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ITEM NO.2 COURT NO.3 SECTION XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Contempt Petition(Civil)No.109/2008 In C.A.No.4203/08 arising out of SLP(Civil)No.15362/2008

LUCKNOW DEV. AUTH., LUCKNOW & ANR. Petitioner(s)

VERSUS

OM PRAKASH SRIVASTAVA & ANR. Respondent(s)

(With appln.(s) for exemption from filing O.T.)

WITH

Conmt.Pet.(Civil)No.110/2008 In C.A.No.4203/08 arising out of SLP(Civil)No.15362/2008

I.A.3 In C.A.No.4203/08 arising out of SLP(Civil)No.15362/2008

(for Directions)

Date: 25/06/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE G.S. SINGHVI

(VACATION BENCH)

For Petitioner(s) Mr. Shanti Bhushan, Sr. Adv.
in Conmt.Pet(C)No. Mr. Shail Kumar Dwivedi, Addl.Adv.Genl.
109/08 & in SLP(C) Mr. Gunnam Venkateswara Rao, Adv.
No.15362/08 Mr. Manoj Kumar Dwivedi, Adv.
 Ms. Vandana Mishra, Adv.

For Respondent(s)
No.1 in SLP(C)No. Mr. K.T.S. Tulsi, Sr. Adv.
15362/08 & petr. Mr. Kailash Vasdev, Sr. Adv.
in Conmt.Pet(C)No. Mr. Gaurav Bhatia, Adv.
110/08 Mr. K.K. Lahari, Adv.
 Mr. Irsad Ahmad, Adv.
 Mr. Keshav Mohan, Adv.
 for M/s. Bhatia & Cos. Advs.

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UPON hearing counsel the Court made the following
ORDER

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Petition(C) No.110/08 has been filed by Sahara India Commercial
Corporation Limited, which is respondent No.1 in the Special Leave Petition.
This application has been mentioned by Mr. Kailash Vasdev, learned senior
counsel, for deletion of alleged contemnors/respondent Nos. 5 and 6 from
the cause title, as the petitioner does not wish to proceed against these
respondents.

Let the names of respondents Nos.5 and 6 be deleted from the
array of the parties.

Leave granted.

The appeal as also the two Contempt Petitions and I.A.3 of 2008

are disposed of accordingly.

There will be no order as to costs.

(Sheetal Dhingra)

Court Master

(Veera Verma)

Court Master

[Signed order is placed on the file]

[P.S. copy of this order be given by tomorrow]