

i
SLP(C)No. 19498 OF 1999
ITEM No.4

Court No. 8

SECTION XIV
A/N MATTER

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 (Civil) No.19498/1999

(From the judgement and order dated 02/08/1999 in CW 1310/94
of The HIGH COURT OF DELHI AT N. DELHI)

K.K. MUTREJA

Petitioner (s)

VERSUS

UNION OF INDIA AND ORS.

Respondent (s)

(With Appln(s). for directions & with prayer for interim relief &
office report)

(For Final Disposal)

Date : 10/10/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. Ajit Kumar Sinha,Adv.

For Res No.7 Mr. Jose P Verghese, Adv. for
Mrs Sarla Chandra,Adv.

Mr. NN Goswami, Sr. Adv.
Mr. SWA Qadri, Adv. for
Mr. D.S. Mahra,Adv.

for MCD Ms. Binu Tamta,Adv.

Mrs Rani Chhabra,Adv. (NP)

Ms. Indra Sawhney,Adv.(NP)

UPON hearing counsel the Court made the following

O R D E R

...L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Heard the learned counsel for the parties.

It appears that for one or the other reason the concerned
officers of the Municipal Corporation of Delhi are not taking any
action for removing the encroachment on the public roads or at
. .2/-

- 2 -

public places for various reasons. The High Court directed the
removal of encroachment in 1995. That order was unfortunately
reviewed after lapse of four years and respondent No.7 who was
encroacher on the public land near Lajpat Nagar No.IV and got

benefit of technicalities. However, when the matter came up for admission before this Court on 14th March, 2001 the Court passed the following order :

.....L.....T.....T.....T.....T.....T.....T.....J
.SP1

"After hearing the matter for sometime, we are told by Ms. Binu Tamta, learned counsel for the MCD that a decision has been taken way back in 1994 for demolishing the disputed structure allegedly constructed by the 7th respondent. We are not considering at present any argument of the 7th respondent as against the said decision because we are passing order without prejudice to the right of the 7th respondent to challenge the said decision, if any, made. But if such a decision was made by the MCD either in 1994 or thereafter we are at loss to understand why the MCD was disabled from implementing the said decision. Prima facie it@@
CCCCCCCCCCCCCCCCCC
speaks much about the weakness of the MCD unless@@
CC
they explain otherwise to us. We, therefore,@@
CC
direct the Commissioner of MCD to show cause why@@
CC
the said decision has not been implemented and also@@
CC
to showcause why adverse remarks should not be@@
CC
passed against him for his inability to implement@@
CC
the decision taken by the MCD as early as on 1994.@@
CC
The explanation should reach this Court either in@@
CC
the form of an affidavit or otherwise within one@@
CC
week from today."@@
CCCCCCCCCCCCCCCCCC

L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

In compliance with the aforesaid order, the Commissioner of the MCD filed an affidavit informing that the needful was done and the encroachment was removed and the Court recorded the same in its order dated 22nd March, 2001.

Today when the matter comes up for further hearing learned counsel for the petitioner states that at present also respondent No.7 has reconstructed on the said area and has started his business on the same spot.

..3/-

As against this, learned counsel for respondent No.7 states that he is carrying out his business activities at the same spot without reconstruction of the premises.

Considering the stand taken by respondent No.7 and inaction of the concerned officers of the MCD, we direct the Municipal Commissioner of Delhi to take appropriate action for removal of encroachment within the area of Block-C, Amar Colony, Lajpat Nagar No.IV.

In the Judgment and order dated 18th November, 1998 passed by the High Court it has been mentioned that it was the contention of

respondent No.7 that there are several other persons who are in occupation of public properties and the list of such occupants includes the following persons:

1. Mr. Manmohan Singh Kohli
2. Mr. S.K. Bhatia
3. Ms. Surinder Kaur
4. Ms. Raj Kumari Malhotra
5. Mr. J.R. Sethi
6. Mr. Shyam Lal
7. Mr. KK Mutreja and
8. Mr. Dinesh Kr. Bharadwaj

In view of aforesaid submissions and the counter-statements made by the parties, the Commissioner of Municipal Corporation of Delhi (MCD) is directed to issue fresh notices within seven days from today for removal of encroachments, if any, made by the aforesaid persons and give them 14 days time to file reply, if any. Then, he ...4/-

- 4 -

will pass appropriate orders after hearing them. The orders passed by the Commissioner should be reported to this Court in this matter. Concerned affected persons would have the liberty to file proper application before this Court alone. It would be open to the Commissioner to take appropriate action of demolition if no order is passed by this Court.

Learned counsel for respondent No.7 states that apart from the persons above-named there are several others (according to the plan submitted at page 86 onwards of this paper book) who have encroached upon the public land and no action is being taken against them. The Commissioner will look into this allegations and pass appropriate orders

List this matter after six weeks.

.SP1

(D.L. Chugh)
Court Master

(K.K. Chadha)
Court Master