

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10737/2013

THAKUR RANGJI MAHARAJ VIRAJMAN MANDIR,
VRINDAVAN

APPELLANT(S)

VERSUS

UNION OF INDIA THR. ITS SECRETARY & ORS.

RESPONDENT(S)

O R D E R

1. This appeal arises out of a suit filed by the appellant which is a Temple Trust. It appears that the land subject matter of suit bearing Khasra No.11 (Area 3 Bigha, 1 Biswa), Khevat No.1, situated at Mauza Basai, Tehsil and District Agra is admittedly owned by the appellant. The courts have found that the appellant is the owner of the said land. After recording the finding that the appellant is the owner of the land and that the said land is being used by the respondent for beautification of Taj Mahal, the courts did not grant relief of injunction. It appears from the decision in second appeal that a prayer was made by the learned senior counsel appearing for the appellant that damages ought to have been awarded. This prayer was made in the light of what is recorded in paragraph 9 of the impugned judgment which reads thus:

“Upon perusal of the aforesaid orders, there is no doubt that development of a green belt over the disputed land has been undertaken by the Archaeological Survey of India, in furtherance/implementation of the orders passed by the Hon’ble Apex Court from time to time, therefore, no exception can be taken. On these facts no perversity could be attached to the view taken by the courts below in dismissing the suit.”

2. Pursuant to the order dated 10th January, 2024, an affidavit has been filed by the Archaeological Survey of India (ASI). In substance, the stand taken in the affidavit is that the ASI carried out work of removal of vegetation growth, accumulated garbage and silt deposited during the rainy season, dung of cattle and other undesirable materials in the year 2004. Thereafter, the landscaping activity/green belt is initiated. It is stated that the land measuring 7030 square meters is completely free from any activity of ASI except that it has to be maintained as a green belt. It is stated that the land is fenced to prevent entry of cattle. ASI has relied upon Section 20A of the Ancient Monuments and Archaeological Site and Remains Act, 1958 (for short, ‘the 1958 Act’) and has also relied upon an order made by this Court on 4th September, 1998 in Writ Petition No.13381/1984 (M.C. Mehta vs. Union of India & Ors.). The submission of the ASI represented by the learned ASG is that it is in view of the

order of this Court that all construction activities within 500 meters of area of Taj Mahal have been prohibited and this buffer zone of the 500 meters is to be used for the purpose of improving environmental conditions in the vicinity of Taj Mahal.

3. Now, we refer to Section 20A of the 1958 Act which reads thus:

"20A. Declaration of prohibited area and carrying out public work or other works in prohibited area.—Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of one hundred metres in all directions shall be the prohibited area in respect of such protected area or protected monument:

Provided that the Central Government may, on the recommendation of the Authority, by notification in the Official Gazette, specify an area more than one hundred metres to be the prohibited area having regard to the classification of any protected monument or protected area, as the case may be, under section 4A.

(2) Save as otherwise provided in section 20C, no person, other than an archaeological officer, shall carry out any construction in any prohibited area.

(3) In a case where the Central Government or the Director-General, as the case may be, is satisfied that—

(a) it is necessary or expedient for carrying out such public work or any project essential to the public; or

(b) such other work or project, in its

opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or, access to, the monument or its immediate surrounding, 1. Ins. by Act 10 of 2010, s. 4 (w.e.f. 16-6-1992) it or he may, notwithstanding anything contained in sub-section (2), in exceptional cases and having regard to the public interest, by order and for reasons to be recorded in writing, permit, such public work or project essential to the public or other constructions, to be carried out in a prohibited area:

Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a prohibited area in respect of such protected monument, shall be deemed to be the prohibited area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted by the Central Government or the Director-General, as the case may be, for the construction within the prohibited area on the basis of the recommendation of the Expert Advisory Committee, shall be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times: Provided further that nothing contained in the first proviso shall apply to any permission granted, subsequent to the completion of construction or re-construction of any building or structure in any prohibited area in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O. 1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, or, without having obtained the recommendations of the Committee constituted in pursuance of the order of the

Government of India number 24/22/2006-M, dated the 20th July, 2006 (subsequently referred to as the Expert Advisory Committee in orders dated the 27th August, 2008 and the 5th May, 2009).]

[(4) No permission, referred to in sub-section (3), including carrying out any public work or project essential to the public or other constructions, shall be granted in any prohibited area on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010 receives the assent of the President.]”

4. There is no dispute that Taj Mahal is a protected monument and therefore, in terms of sub-section (1) of Section 20A, the area to a distance of 100 meters in all directions of Taj Mahal is a prohibited area. There is a power vesting in the proviso to sub-section 1 of Section 20A in the Central Government to specify an area more than 100 meters to be prohibited area having regard to the classification of any protected monument as the case may be under Section 4A.

5. It is not in dispute that the land subject matter of this appeal is covered by prohibited area of 100 meters covered of sub-section 1 of Section 20A. Therefore, there is a restriction on use of the land as provided in Section 20A.

6. Our attention is invited to Sections 27 and 28 which read thus:

“27. Compensation for loss or damage.—Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the Central Government for such loss, damage or diminution of profits.

28. Assessment of market value or compensation.—

(1) The market value of any property which the Central Government is empowered to purchase at such value under this Act or the compensation to be paid by the Central Government in respect of anything done under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894 (1 of 1894), so far as they can be made applicable: Provided that, when making an enquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Central Government and one a person nominated by the owner, or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

[(2) For every antiquity in respect of which an order for compulsory acquisition has been made under sub-section (3) of section 23 or under sub-section (1) of section 26, there shall be paid compensation and the provisions of sections 20 and 22 of the Antiquities and Art Treasures Act, 1972 (52 of 1972) shall, so far as may be, apply in relation to the determination and payment of such compensation as they apply in relation to the determination and payment of compensation for any antiquity or art treasure compulsorily acquired under section 19 of that Act.]”

7. There is no provision under the 1958 Act which compels ASI or the Government to acquire the area governed by Section 20A(1). But in view of the said provision, there will be restrictions on the use of the said land. Section 27 provides that the owner or occupier of the land who has sustained any loss or damage or any diminution of profits due to exercise of any other power conferred by the 1958 Act, shall be paid compensation by the Central Government for the extent of such loss, damage etc. The present case would be governed by this part of Section 27 where the appellant will have to be compensated for the loss or damage or diminution, if any, caused due to restrictions imposed under Section 20A(1) of the 1958 Act.

8. Section 28 provides that the compensation in terms of Section 27 of the 1958 Act shall be computed in the manner laid down therein.

9. Therefore, in the present case, compensation can be claimed by the appellant under Section 27 read with Section 28 of the 1958 Act. While determining the compensation, the concerned authority of the Union of India will bear in mind that the restrictions were applicable under Section 20A from 4th September, 1998.

10. Therefore, we dispose of the appeal by passing following order:

(i) The Union of India shall determine the compensation payable to the appellant in terms of Section 27 of the 1958 Act in accordance with the procedure laid down under Section 28 thereof; and

(ii) the compensation shall be determined and paid within a period of six months from today.

11. The appeal is disposed of on above terms.

12. At this stage, learned senior counsel appearing for the appellant submits that compensation to be determined as per Section 28 of 1958 Act will have to be determined in terms of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. It is for the appellant to urge this issue before the competent authority of the Union of India while the compensation is determined in accordance with Section 27 read with Section 28 of the Act.

13. Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
MARCH 20, 2025.

ITEM NO.102

COURT NO.4

SECTION III-A

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.10737/2013

THAKUR RANGJI MAHARAJ VIRAJMAN MANDIR,
VRINDAVAN

Appellant(s)

VERSUS

UNION OF INDIA THR. ITS SECRETARY & ORS.

Respondent(s)

[AS SECOND ITEM]

IA No. 37260/2025 - EXEMPTION FROM FILING O.T.

Date : 20-03-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) : Mrs. V Mohana, Sr. Adv.
Dr. K B S Rajan, Sr. Adv.
Ms. Jayasree Narasimhan, AOR
Mr. Mahesh Kumar, Adv.
Mr. Bhavya Pande, Adv.

For Respondent(s) : Ms. Aishwarya Bhati, A.S.G.
Ms. Chitragda Rastravara, Adv.
Mr. Shantnu Sharma, Adv.
Mr. Nar Hari Singh, Adv.
Ms. Sweksha, Adv.
Mr. Adit Khorana, Adv.
Mr. Shreekant Neelappa Terdal, AOR

Mr. Rana Mukherjee, Sr. Adv.
Mr. Ajay Agarwal, A.A.G.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Ms. Aditi Mishra, Adv.
Mr. Kamlendra Mishra, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order
which is placed on the file.

Pending application(s), if any, shall stand disposed
of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)