

ITEM NO.301 REVISED COURT NO.2 SECTION PIL

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

I.A.NOS.460, 470, 478-481, 486, 487, 517-518, 527, 529-530, 532,
533-534, 538,540-541 in Writ Petition(s)(Civil) No(s). 13381/1984

M.C. MEHTA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(for directions, permission to file rejoinder affidavit and exemption from filing O.T. and seeking permission for cutting/felling of trees and permission to removing/felling of trees and office report)
(I.A.No.542-appln. for making addl. submissions) in I.A.Nos. 533-534 and I.A.No. 543-appln. for modification of Court's order dated 8.5.2015 in I.A.No. 527 in W.P.(C)No.13381/1984)

Date : 14/09/2015 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. M.C.Mehta, Petitioner-in-person
Applicant-in-person,Adv.

For C.E.C. Mr. A.D.N. Rao,Adv.
Mr. Annam Venkatesh,Adv.
Mr. Sudipto Sircar,Adv.
Ms. Neelam Jain,Adv.
Ms. Vaishali R.,Adv.
Ms. Ankita Chadha,Adv.

For C.P.C.B. Mr. Vijay Panjwani,Adv.

For MOEF Mr. Maninder Singh,ASG.
Mr. R.Balasubramanian,Adv.

Signature Not Verified

Digitally signed by
Suman Wadhwa
Date: 2015.09.23
16:44:41 IST
Reason:

Ms. Kiran Bhardwaj,Adv.

Mrs. Mala,Adv.

Mr. Pranav Kumar,Adv.
Mr. Santosh Kumar,Adv.
Mr. B.V.Balram Das,Adv.
Mr. Dhruv Sheoram,Adv.

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In IA Nos. 533-534 Mr. H.P.Raval, Sr.Adv.
Mr. M.P.Shorawala,Adv.
Mr. Nipun Saxena,Adv.
Mr. Anando Mukherjee,Adv.
Ms. Shruti Sen,Adv.

Mr. D.S. Mahara,Adv.

Mr. Vijay Bahadur Singh, A.G. (U.P.)
Mr. Gaurav Bhatia, AAG. (U.P.)
Mr. Abshishek Chaudhary, Adv.
Mr. R.P. Mehrotra, Adv.
Mr. Uday Pratap Singh, Adv.
Mr. Utkarsh Jaiswal, Adv.

Mr. M.C. Dhingra, Adv.

Mr. SWA Qadri, Adv.
Mr. Jubair Ahmad Khan, Adv.
Mr. Zaid Ali, Adv.
Mr. Tamim Qadri, Adv.
Mr. L.R. Singh, Adv.

Ms. Madhvi Diwan, Adv.
Ms. Sunita Sharma, Adv.
Mr. SWA Qadri, Adv.
Mr. S.S. Rawat, Adv.
Mr. Manish Vashishtha, Adv.

Mr. Atul Chitley, Sr. Adv.
Mr. N.K. Karnail, Adv.
Ms. Bharti Tyagi, Adv.
Mr. S.N. Terdol, Adv.

for applicant in
IA 540-541

Mr. Wajeeh Shafiq, Adv.

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

In IA No. 533, 534 & 542

This application has been filed by Mathura
Vrindavan Development Authority seeking permission for
felling of 25 trees for the installation and construction

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of a proposed Ropeway for the Radha Rani (Ladleeji) Temple
at Barsana, District Mathura. When this application
initially came up for hearing on 18.5.2015 we requested the
Central Empowerment Power Committee to examine the prayer
made in the application and submit a report. The Committee
has accordingly examined the matter and submitted its
recommendations in which it has, inter alia, stated that
since the project is in public interest and no viable
alternative to avoid felling of trees is feasible, the
permission prayed for could be granted in relation to 25
trees growing on the forest land and 77 trees on the
non-forest land for the proposed construction subject to

the following conditions enumerated at page 7 of the report:

- i) for diversion of the forest land formal approval under the Forest (Conservation) Act, 1980 will be obtained and the conditions on which such approval is granted will be strictly complied with;
- ii) the enumeration of the existing trees on the forest land and non forest land that are proposed to be retained will be done by the Applicant and verified by a senior officer of the U.P.Forest Department. The applicant will ensure that felling of such trees does not take place;
- iii) for felling of trees from non-forest land approval of the competent authority under the Uttar Pradesh Protection of Trees Act, 1976 will be obtained;
- (iv) compensatory planting of 10 times the number of trees affected by the project will be undertaken at the project cost;
- v) minimum number of trees will be felled. Wherever technically feasible instead of felling, cutting of branches/lopping will be done; and

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- vi) the felling of trees will be undertaken only after the compensatory planting is undertaken in the area identified for this purpose.

Mr. H.P.Raval, learned Senior Counsel appearing for the applicant submits that the applicant is willing to abide by the conditions made by the CEC and has filed an affidavit to that effect which is on record. Mr. A.D.N.Rao, learned counsel appearing on behalf of the CEC on the other hand submits that apart from the conditions stipulated in the report of the CEC, the permission to fell trees should be subject to the applicant getting all other statutory clearances including Environment Impact Assessment (EIA) for the project, as suggested by Mr. Mehta, the petitioner in person.

In the circumstances therefore and given the fact that the CEC has recommended grant of permission prayed for by the petitioner in regard to 25 trees on forest land and 77 others on non-forest land felling whereof is essential for the completion of the project, we grant the permission,

for a total of 102 trees out of which 25 are growing on forest land and 77 on non-forest land on the conditions enumerated in the CEC report extracted above. We further direct that the felling of the trees shall be subject to the applicant obtaining all statutory clearances including, if necessary, Environment Impact Assessment as contended by Mr. Mehta.

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All the I.As. stand disposed of.

In I.A.No.460

CEC to examine the prayer made in the application and submit a report.

The State of U.P. has pursuant to our order dated 8.5.2015 filed two additional affidavits and a progress

report in compliance with our directions.

Learned counsel

for the parties have been given copies of the said affidavits and reports for perusal and to file such responses as may be considered necessary.

The officers

from the State Government shall also in the meantime file

their periodic progress reports every three months as

directed in terms of our order dated 8.5.2015.

In I.A.Nos. 527 and 543

The Government of India, Ministry of Defence has in IA 543 sought modification of our order dated 8.5.2015 in so far as the same directs planting of a total of 64,539

trees. The application points out that the applicant can

plant 20,000 trees during the current year and another 28,274 trees by December 2017 in the earmarked areas for

the purpose. The balance of 16,265 trees and 4440 trees

towards compensatory plantation against 444 trees allowed

to be fallen shall be planted after completion of the modernization work.

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Having heard learned counsel for the parties and keeping in view the fact that the Ministry of Defence, COD Agra has already planted 7962 trees, as also the fact that nearly 22 hectares of land will become available after modernization, we are inclined to permit the COD Agra to plant 20,000 trees during the current year and 28,274 more trees up to December 2017. The balance number of trees shall be planted after the completion of the modernization work, as prayed for in the I.A. No.543.

The application is accordingly allowed to the above extent. The applicants shall be free to seek further modification, if so, the same becomes necessary after the plantation for the current year i.e. 20,000 trees is completed.

In 529-530

Brigade Commander "Headquarters 50 (Independent) Parachute Brigade" Agra has filed an affidavit enclosing therewith an Action Plan which the establishment proposes to implement till July 20, 2017. Learned counsel for the parties have no objection if the proposed Action Plan is accepted. We accordingly take the Action Plan on record and permit Headquarters 50 Parachute Brigade to implement the plan in the manner set out therein and to submit a report about the work undertaken every six months.

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In IA 540-541

CEC to examine the prayer made in the application and submit a report.

(SUMAN WADHWA)
AR-cum-PS

(RAJINDER KAUR)
COURT MASTER

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ITEM NO.301

COURT NO.2

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R E C O R D O F P R O C E E D I N G S

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Mr. Dhruv Sheoram,Adv.

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Mr. Nipun Saxena,Adv.
Mr. Anando Mukherjee,Adv.
Ms. Shruti Sen,Adv.

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(RAJINDER KAUR)
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