

FF
ITEM NO.29

COURT NO.1

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.502-503 IN W.P.(C)No.13381 of 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(for permission to develop and manage Taj Nature Walk and Taj Heritage
Corridor Area (MUMTAJ ECO PARK) on B/O State of U.P.Forest Department and
office report)

WITH

I.A.NOS.504-505 IN W.P.(C)No.13381 of 1984

(for permission for carrying out the project of urban conservation &
infrastructure development of area around Taj Mahal on B/O State of U.P.and
exemption from filing O.T.and office report)

I.A.NOS.507-509 IN W.P.(C)No.13381 of 1984

(for impleadment and permission to fall out/cut the trees in Taj Trapezium
Zone (TTZ) and exemption from filing O.T.and office report)

Date: 15/07/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. P.Narasimha, Sr. Adv. (A.C.)

Petitioner-In-Person

For Respondent(s)

St. of UP Mr. Gaurav Bhatia, AAG.U.P.
Mr. Abhishek Chaudhary, AOR

UOI Mr. Rakesh Kumar Khanna, ASG.
Mr. M.Khairati, Adv.
Mr. M.K. Gupta, Adv.
Mr. Shailender Saini, Adv.
Mr. S.N. Terdal, Adv.

UOI Mr. Mohan Prasad Gupta, Adv.
Mr. S.N. Terdal, Adv.

Mr. D.S. Mahra, AOR

Mr. S.Wasim A.Qadri, Adv.
Mr. Tamim Qadri, Adv.
Mr. L.R. Singh, AOR.

Mr. Jitendra Mohan Sharma, AOR

CPCB Mr. Vijay Panjwani, AOR

Mr. Annam D.N. Rao, AOR

Mr. Shiv Prakash Pandey, AOR

applicant

Mr. M.R. Shamshad, AOR
Mr. Ahmad S.Azhar, Adv.
Mr. Shashank, Adv.

UPON hearing counsel the Court made the following

O R D E R

The learned AAG for the State of U.P., Mr. Gaurav Bhatia, submitted that in IA Nos.502-503 of 2012, filed in the pending writ petition, a response had been filed by the Archaeological Survey of India(A.S.I.), to which the applicants would like to file their reply.

Let these applications stand over for a period of two weeks for the present, to enable the State of U.P.to file its response to the said affidavit.

I.A No.504 of 2012, has been filed on behalf of the State of U.P. in the pending writ petition, inter alia, for grant of permission to the State Government to implement and complete the projects of Urban Conservation and Infrastructure Development of Area Around Taj Mahal, as indicated in the application itself.

Learned counsel appearing in support of the application points out that the work required to be done in order to preserve the monument and also to beautify the environment for attracting tourists, has been set out in detail in paragraph 4.5 of the application. It has also been submitted that the permissions and sanctions from the authorities concerned have also been obtained and permission has also been obtained from the main authority, namely, A.S.I. to carry out the said work.

On behalf of the A.S.I., Mr. A.D.N. Rao, learned counsel, pointed out that permission had been granted by the A.S.I. to the State for carrying out the work in question with certain conditions, which had been indicated in the counter affidavit filed on behalf of the A.S.I. The said counter affidavit has been filed in this Court on 11th July, 2013, from which it appears that the State is required to comply with conditions (a) to (d), while carrying out the stipulated work. Of course, it has also been submitted by Mr. Rao, that the work, as indicated, could be carried out in a phased manner, since it may not be possible and practical to expect the State and the Agra Development Authority, to be able to comply with some of the terms, such as, removal of shops and relocation of occupants, within a short span of time. Accordingly, it has been submitted that in order to carry out such work, conditions could be as mentioned above, carry out in a phased manner.

One of the conditions, which has been included is with regard to the road levels around Taj Mahal, which is located on the riverfront, resulting in raising of the surface as a result of which water overflows into the monument. This is a work which needs to be undertaken immediately and the same was undertaken in terms of the suggestions made in the affidavit filed on behalf of the A.S.I.

In view of the interest of all concerned, the Agra Development Authority, and also the State Public Works Department, which is duly represented in these proceedings, has offered to extend all cooperation to the State, as well as to the A.S.I., for carrying out and completing the work for which permission has been sought. I.A.No.504 of 2012, is disposed of, accordingly.

Let a copy of this Order be made available to the State of U.P., Agra Development Authority, the A.S.I., as well as to the Central Pollution Control Board, for reference.

IA Nos.507-509 of 2013

IA 507 of 2013 is for impleadment of the applicant, and IA 509 of 2013 for exemption from filing O.T., which are allowed.

IA No.508 of 2013, has been filed on behalf of the U.P.State Bridge Corporation Ltd.,Agra, U.P, inter alia, for permission to cut several trees at Railway Crossing Numbers 81 and 78, which fall within the Taj Trapezium Zone.

Basically, none of the parties have any objection to such a proposal, since the local authorities wish to prevent any mishap as far as the level crossing is concerned.

Learned Amicus Curiae, Mr. P.Narasimha, senior advocate, has indicated that there is one tree amongst the trees proposed to be cut, which is of ancient vintage and it would be good for the environment if the same could be preserved.

Let this I.A.be adjourned for two weeks for the present, to enable Mr. Qadri, appearing for the applicant to take instructions as to whether the over-bridges sought to be constructed can be so done so as to avoid the said tree.

Let this matter be adjourned till Friday (19th July, 2013).

Another practical difficulty has been expressed on behalf of some of the parties on account of the fact that Mr. M.C. Mehta, who is the writ petitioner in these proceedings, is no longer appearing in these matters, and is rather irregular these days.

According to the learned counsel, the parties face difficulty at times to serve him when certain orders are required to be passed in these matters. It is, in fact, because of Mr. Mehta's inability to appear regularly in these matters, that Mr. Narasimha, learned senior advocate, has been requested to assist the Court as Amicus Curiae.

Accordingly, any communication or notice which may be required to be given to Mr. Mehta, must first be given to the learned A.C., who shall, thereafter, decide as to whether such notice is required to be sent to Mr. Mehta.

|(Sheetal Dhingra)
|AR-cum-PS

|(Juginder Kaur)
|Assistant Registrar