

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.65-66 IN TRANSFER PETITION (C) NOS.438 & 440 OF 2008
IN TRANSFER PETITION (C) NOS.435-444 OF 2008

STATE OF U.P.& ANR.ETC.ETC. Petitioner(s)

VERSUS

GOMTI NAGAR JAN KALYAN MAHA SAMITI & ANR.ETC.ETC. Respondent(s)

(For Directions)

Date: 11/09/2009 These Matters were taken up today at 12.45 p.m.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE AFTAB ALAM

Mr. Gopal Subramaniam,SG. (A.C.)

For Petitioner(s)Mr. Harish N. Salve,Sr.Adv.
Mr. Shail Kumar Dwivedi,AAG.
Mr. Manoj Kumar Dwivedi,Adv.
Mr. G. Venkateswara Rao,Adv.
Ms. Vandana Mishra,Adv.
Mr. Ashutosh Kumar Sharma,Adv.

For Applicant/Dr. A.M. Singhvi,Sr.Adv.
Respondent(s)Mr. Amit Bhandari,Adv.
Mr. M.C. Dhingra,Adv.
Mr. C.D. Singh,Adv.
Mr. Sanjeev Panigrahi,Adv.
Mr. Vikrant Yadav,Adv.
Mr. Gaurav Dhingra,Adv.
Ms. Rekha Pandey,Adv.
Mr. Shiv Prakash Pandey,Adv.
Mr. Abhishek Chaudhary,Adv.

Dr. A.M. Singhvi,Sr.Adv.
Mr. C.D. Singh,Adv.
Mr. Aditya Singh,Adv.
Mr. Sunny Choudhary,Adv.
...2/-

- 2 -

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

I.A. Nos.65-66:

Taken on Board.

This matter was last heard on 8th September, 2009. On that date, Dr. A.M. Singhvi, learned senior counsel appearing for the applicant, concluded his arguments and while Mr. S.C. Mishra, learned senior counsel appearing on behalf of the State of Uttar Pradesh, was on his legs, the Court had to rise for the day. After hearing the matter for over two hours, we were inclined to pass some interim orders till the matter was next taken up on 29th September, 2009. At that time, however, Mr. S.C. Mishra, gave an undertaking that no further constructions will be ca

ried on at the project sites covered by different writ petitions pending in the Allahabad High Court. In view of the clear and definite undertaking given on behalf of the State of Uttar Pradesh, there was no need for the court to pass any formal interim order.

However, from the reports appearing in the print media ('The Times of India', New Delhi, Thursday 10th September, 2009, and 'The Hindu' city Edition, Delhi, Friday, 11th September, 2009) and the Electronic media (NDTV 24X7; Programme telecast in the evening of 10th September, 2009), it appears that, despite the undertaking, there is no let up and the work is progressing in full swing on the project sites in question.

..3/-

- 3 -

In view of the disquieting reports appearing in the media, we decided to take up the matter when this Bench would assemble, as per today's constitution, in connection with some other case.

Learned counsel for the parties were accordingly informed and asked to be present in court in connection with this case. Mr. Gopal Subramaniam, learned Solicitor General for India, was also requested to be present to assist the Court as amicus curiae.

The matter was taken up at 12.45 p.m.

Mr. S.C. Mishra, learned senior counsel is not present today. The State of Uttar Pradesh is represented by Mr. Shail Kumar Dwivedi, learned Additional Advocate General, and Mr. Harish N. Salve, learned senior counsel. Mr. Harish N. Salve, learned counsel, submitted that he has not been fully briefed in the matter and was not fully aware of the developments taking place after 8th September, 2009. Dr. A.M. Singhvi, learned counsel, stated that the reports appearing in the media were true and constructions were going on at the project sites in complete violation of the undertaking given to this Court. He also produced before the Court a bunch of photographs showing construction work going on at the project sites in question with the help of earth movers and other heavy machinery allegedly after 8th September, 2009.

The media reports, as already noted, disclose that construction work is going on in full swing on the different construction sites in question in violation of the undertaking given to this Court. We may note that there is a denial

...4/-

- 4 -

on behalf of the State Government that any construction is in progress and 'The Hindu' has been fair enough to publish the denial by the spokesperson of the Uttar Pradesh Rajkiya Nirman Nigam. In the news report, it is further stated that the spokesperson on behalf of the State Government admitted that only maintenance work was being carried out. But the news report in 'The Hindu' also carries a photograph and, unless it is of an earlier date, the photograph tells a different story and makes it clear that the construction activities are very much going on at the Kanshi Ram Sanskrit Sthal and other places in Lucknow as mentioned in the report, which are covered by the undertaking given to this Court.

Having regard to the way this matter has proceeded, we are unable to ignore or dismiss the media reports; more so, as the record of the State of Uttar Pradesh in adhering to its undertakings given to the Court in the past has not been exemplary.

In view of the aforesaid developments, we direct the Chief Secretary of the State of Uttar Pradesh to file show cause stating in unambiguous terms the nature of work, if any, that was allowed to be carried on at the projects in question after 8th September, 2009.

'The Times of India, Delhi', 'The Hindu, Delhi', and 'NDTV 24X7' are directed to submit before the Court all materials in their possession along with affidavits in support of their reports that construction work was carried on at the project sites in question after 8th September, 2009.

...5/-

- 5 -

It is further directed that all activities of all manner and kinds, whether construction, repair or maintenance, shall stop forthwith at all the construction sites covered by the previous order of this Court and all the construction sites shall be vacated of the entire workforce, excepting the watch and ward staff within six hours from now, i.e., by 7.00 p.m.

The show cause, as directed above, and the materials from the media should be filed before this Court by 17th September, 2009.

Let this matter be placed on 18th September, 2009, immediately after the Board of Court No.3 is over.

Let copies of the two newspaper reports, referred to above, be taken on record.

The Registry is directed to communicate this order to the offices of the 'The Times of India', 'The Hindu' and NDTV 24X7 by fax as well for compliance with the direction given to them.

[T.I. Rajput][Savita Sainani]
A.R.-cum-P.S. Court Master