

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) NOS.435-442 & 444 OF 2008

State of U.P. & Anr.

...Petitioners

Versus

Gomti Nagar Jan Kalyan Maha Samiti
& Anr., etc. etc.

...Respondents

WITH

SUO MOTU CONTEMPT PETITION (C) No.326 OF 2009
IN
TRANSFER PETITION (C) NOS.438 & 440 OF 2008

In Re:

Gomti Nagar Jan Kalyan Maha Samiti & Ors.

AND

SPECIAL LEAVE PETITION (C) NO.9489 OF 2008

State of U.P. & Anr.

..... Petitioners

Versus

Gomti Nagar Jan Kalyan Maha Samiti
& Anr.

..... Respondents

O R D E R

Special Leave Petition (C) No.9489 of 2008 has been filed by the State of U.P. against the interlocutory order dated 04.04.2008 passed by the Division Bench of the Allahabad High Court, Lucknow

2

Bench, Lucknow, in Writ Petition No. 3576 (M/B) of 2006 directing the State Government to maintain status quo and not to raise any construction at any place which had been notified by the notices filed along with the affidavit dated 21.02.2008 of Shri Shankar Agarwal, the then Secretary, Housing, Government of U.P.. On 21.04.2008, this Court while issuing notice in the SLP also directed stay of the impugned interlocutory order dated 04.04.2008 passed by the Division Bench of the Allahabad High Court, Lucknow Bench, Lucknow, and further proceedings before the High Court in Writ Petition No 3576 (M/B) of 2006.

2. Transfer Petitions Nos. 435-442 and 444 of 2008 have been filed by the State of U.P. for transferring to this Court Writ Petitions Nos. 3576 (M/B) of 2006, 3695 (M/B) of 2006, 1368 (M/B) of

2008, 8430 (M/B) of 2007, 7357 (M/B) of 2007, 9343 (M/B) of 2007, 8782 (M/B) of 2007, 2841 (M/B) of 2008, and 3236 (M/B) of 2006 pending before the Allahabad High Court, Lucknow Bench, Lucknow, on inter alia the ground that the question of law raised in the writ petitions was the same as the one raised in S.L.P. (C) 9489 of 2008.

3. On 08.09.2009, this Court passed orders in I.A. Nos. 65-66 of 2009 in T.P.(C) Nos.438 & 440 of 2008 recording the undertaking on behalf of the State of U.P. that no further construction over the properties, which are subject-matter of the writ petitions pending before the Allahabad High Court,

3

Lucknow Bench, Lucknow, would be made. Pursuant to reports in the newspapers that some work continued on the properties, this Court passed orders in I.A. Nos.65-66 of 2009 in T.P.(C) Nos.438 & 440 of 2008 directing 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.

4. On 06.10.2009, this Court further passed orders in I.A.Nos.65-66 of 2009 in T.P.(C) Nos.438 & 440 of 2008 initiating the contempt proceedings against the Chief Secretary, State of U.P., and directing notice to him to show-cause why he should not be proceeded against and punished for deliberate and conscious violation of the undertaking given to this Court on 08.09.2009 and of the restraint order passed by this Court on 11.09.2009 and accordingly suo motu Contempt Petition (C) No.326 of 2009 has been registered. On 06.10.2009, this Court also passed orders making the interim orders passed on 11.09.2009 in I.A. Nos.65-66 of 2009 in T.P.(C) No.438 & 440 of 2008 absolute.

5. We have heard Mr. Harish N. Salve and Mr. R.N. Trivedi, learned counsel for the petitioners and Dr. Abhishek Manu Singhvi, learned counsel for the respondents.

4

6. We are not inclined either to interfere with the interlocutory order dated 04.04.2008 passed by the Division Bench of the Allahabad High Court, Lucknow Bench, Lucknow, in Writ Petition No. 3576 (M/B) of 2006 or to direct transfer of the writ petitions pending in the Allahabad High Court, Lucknow Bench, to this Court. We, however, request the Chief Justice, Allahabad High Court, to nominate as soon as possible an appropriate Bench to hear Writ Petition No. 3576 (M/B) of 2006 along with all the Writ Petitions which were sought to be transferred to this Court by the Transfer Petitions (C) Nos. 435-442 and 444 of 2008 and we request the Bench of the Allahabad High Court so nominated to

hear and dispose of all these matters within a period of four months from the date of constitution of the Bench.

7. We had called upon the Chief Secretary, Government of U.P., to file an affidavit indicating the cleaning, maintenance and repair work which need to be done during the pendency of the writ petitions before the High Court and an affidavit has been filed by Shri V.K. Sharma, Acting Chief Secretary, Government of U.P., along with the list of works that need to be done in the different project sites. We have perused the list annexed to the affidavit of the Acting Chief Secretary, Government of U.P., but we are not inclined to permit the State Government of U.P. to carry out all the items of work mentioned in the list annexed

5

as Annexure-I. Instead, we direct that until the writ petitions are disposed of by the Bench of the Allahabad High Court to be nominated by the Chief Justice, the interim orders which were passed by this Court on 11.09.2009 in I.A. Nos. 65-66 of 2009 in T.P.(C) Nos.438 & 440 of 2008 and which were made absolute on 06.10.2009 will continue to be in force. During the pendency of the Writ Petitions in the High Court, the State Government may, however, carry out the following works at the different project sites listed in Annexure-I to the Affidavit of the Acting Chief Secretary, Government of U.P.:

"KANSHIRAM SMARAK STHAL, JAIL ROAD, LUCKNOW
Entrance Plaza
Stone waste is lying at some places on the outer side of the building; need to be removed.

Parking Place

Broken stone heaps are lying at some places; need to be removed.

Site Development

There are some temporary construction and labour hutment which are required to be removed.

The saplings of the trees and grass have dried up at some places. New Saplings and grass are required to be planted.

The leakages in the water supply line are visible at some places; need to be rectified immediately.

The unutilized construction materials are required to be removed.

6

RAMABAI AMBEDKAR MAIDAN (RALLY GROUND)

The unutilized building material and scaffoldings from the area behind stand to be removed.

DR. BHIMRAO AMBEDKAR STHAL

There are leakages in the water supply line at some places which need to be plugged immediately.

Some saplings planted in the campus have dried up and hence are required to be replaced.

There are some temporary constructions and labour hutments which are required to be removed.

The unutilized construction materials are required to be removed."

8. In suo motu Contempt Petition (C) No.326 of 2009, we have perused the reply filed by the Chief Secretary, State of U.P., to the suo motu notice of contempt and we find that there has been no construction of any kind after 11.09.2009. We, therefore, discharge the suo motu notice of contempt issued to the Chief Secretary, Government of U.P.

9. With this order, the Special Leave Petition, the Transfer Petitions and the Contempt Petition stand disposed of. The interim order dated 21.04.008 passed by this Court in Special Leave Petition (C) No.9489 of 2008 is vacated. No costs. We clarify that this order will not affect the proceedings in any other Special Leave Petition or Civil Appeals pending in this Court.

7

.....J
(Harjit Singh Bedi)

.....J
(A. K. Patnaik)

New Delhi,
February 09, 2010.

8

ITEM NO.1A COURT NO.12 SECTION XVIA
(FOR ORDERS)

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

TRANSFER PETITION (CIVIL.) NO(s). 435-442 & 444 OF 2008
STATE OF U.P.& ANR. Petitioner(s)

VERSUS

GOMTI NAGAR JAN KALYAN MAHA SAMITI & ORS Respondent(s)

(With appln(s) for vacating stay order dated 1.5.2008 (IA Nos.52-53) and Directions (I.A.Nos.65-66) and permission to file compilation I, II & III (I.A.No.70-71) and Modification/Clarification of Order dated 15.12.2008 and exemption from filing O.T. and directions and vacating interim order dated 11.9.2009 and 6.10.2009)

