

ITEM NO.33 .1  
(Only 31.1. is listed today)

COURT NO.2

SECTION PIL-W

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

Writ Petition(s)(Civil) No(s). 4677/1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([ONLY SLP(C) NO. 33454 OF 2018 IS BEING LISTED] )

WITH

SLP(C) No. 33454/2018 (XIV)

IA No. 19465/2021 - DISMISSING THE CASE

IA No. 182976/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT, IA No. 127086/2020 - FORMAL DISPOSAL

IA No. 182977/2018 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES

IA No. 46028/2022 - RECALLING THE COURTS ORDER)

Date : 06-12-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE ABHAY S. OKA

Mr. Gurukrishna Kumar, Sr. Adv. (AC)

Ms. Anitha Shenoy, Sr, Adv. (AC)

For Petitioner(s)

Mr. Sanjiv Sen, Sr. Adv.

Mr. Praveen Swarup, AOR

Mr. Ajay Bansal, Adv.

Mrs. Suchitra Pandey, Adv.

Mr. Parmanand, Adv.

Mr. Dewneesh Shaktivats, Adv.

Mr. Devesh Maurya, Adv.

Ms. Pratishtha Majumdar, Adv.

For Respondent(s)

Mr. Dhruv Mehta, Sr., Adv.

Mr. Aman Gupta, AOR

Mr. Gaurav Mitra, Adv.

Mr. Nikhil Rohatgi, Adv.

Mr. Dheeraj Trikha, Adv.  
Ms. Neha Jain, Adv.  
Ms. Divya Gupta, Adv.

Mr. Vishnu B. Saharya, Adv.  
Mr. Viresh B Sharya, Adv.  
For Ms/ Saharya & co.

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

SLP(C) No. 33454/2018

The issue in question is regarding conversion of the Flatted Factory Complex i.e. DCM Techno Plaza for commercial usage. This was in pursuance to the directions passed by the High Court. Annexure P-3 is the order which had been passed in pursuance to the compliance whereby the MCD and the DDA had both concurred with the proposal of M/s DCM Ltd. in accordance with the MPD 2021. The opinion of the learned Solicitor General was also taken in this behalf. However, while examining the same in terms of order dated 20.04.2017, it has been stated that while the Committee after considering all the records placed before it has arrived at an opinion on the basis of an advise tendered by DDA (competent and final authority for interpretation of Master Plan) read with the opinion of the Solicitor General that the provision of MPD, 2021 would have been extended to the instant case of conversion of DCM Flatted Factory Complex into the commercial complex, no orders to this effect were being passed as the

matter was under consideration of Monitoring Committee constituted by this Court in terms of orders dated 03.01.2012.

It was the last aspect which was assailed before the Delhi High Court and the learned Single Judge granted his imprimatur to the plea of the DCM vide its order dated 26.05.2017 which had been affirmed by the Division bench in terms of the impugned order dated 30.08.2018.

We have heard learned counsel for the parties at some length as also the learned Amicus curiae who assists the Monitoring Committee.

In view of what has been recorded in the note of 20.04.2017, we do believe that the Monitoring Committee would really not have a role to play in the context of what was before the Committee which examined the matter and we find no ground to interfere with the judgment of the learned Single Judge as affirmed by the Division Bench of the High Court.

We may note in the end that one of the issues flagged arises from the judgment of this Court in the case of *Delhi Development Authority vs. Delhi Cloth Mills Ltd and Ors.*<sup>1</sup> qua the extant of the land i.e. whether it was 52 Acres or 63 Acres. This issue has been dealt with in paras 11 and 12 as under :

1 (1991) 3 SCC 277

"11. Yet all is not lost for the Delhi Cloth Mills. It can still steer through its project in its owned 52 acres, even though in a truncated form and submit an amended plan. On the other hand its relationship with the D.D.A. being that of a lessee and lessor permits a meaningful dialogue seeking extensions of lease periods, and change of permissive user in respect of 11 acres of land. It can make attractive suggestions to the D.D.A. for setting up cultural, educational, recreational and other facilities etc. at the expense of the Delhi Cloth Mills, if the project is to remain of the 63 acre size. It is the case of Delhi Cloth Mills that if it is allowed to involve the said 11 acres of land, the project would be better and it is prepared to pay any charges as are known to law to keep it as part of the project of the original size. Be that as it may we are no experts to opine whether a 52 acre project would be more viable or better or a 63 acre one. But since the project has in terms of our order dated March 13, 1990 to go on, the D.D.A. may if asked examine the suggestions. That is their field and not ours to decide.

12. Before concluding this Order, we cannot help remarking that both parties, i.e., the D.C.M. and the D.D.A. have to share mutually the blame for the present situation. The D.C.M. for its cavalier way in having asserted to own 63 acres of land and the D.D.A. in casually, without consulting its records, passing its Resolution No. 26 dated February 1, 1983 and communicating the same to the D.C.M. on March 31, 1983. Should the D.C.M. now confine its scheme and project to its owned 52 acres of land, abandoning any effort to have included the remaining D.D.A. owned 11 acres of land by negotiations, and the D.D.A. in not offering on its own, or otherwise, the said land to the D.C.M., the project as originally conceived would have to be spruced. It is evident from the proceedings of the Resolution that as per Master Plan, 23.14 acres have been earmarked for flatted factories and 43.39

acres as residential, though the sum total goes to more than 63 acres. Both these areas include areas set apart for facilities and amenities enumerated therein. The respective areas in that event would have to be reduced keeping in view the ground realities of ownership and the earmarking in the Master plan. Cuts inevitably may have to be employed in either area or both. Be that as it may, the scheme in the modified form would have to be brought in, not a new but as a substitute for the original scheme and that scheme would register its birth, legitimacy and binding force as of the original scheme. The mandate in this regard should be clearly understood by the parties concerned for they are under obligation to responsibly carry out the directions of this Court dated March 13, 1990, in all events, and share the burden of it, indeed as doing the blame."

Needless to say that the aforesaid will be adhered to, keeping in mind of course the present change of circumstances as well as the user to which it has to be put to now and also the MPD, 2021.

At the end learned counsel for respondent No. 1 submits that the conversion charges were tendered with the application but on the pretext of what has been stated hereinabove, the same was not encashed. It is his say that the issue as to what is the rate prevalent which would be applicable in case of such conversion, the matter is no more *res integra* in view of the judgment of this Court in the case of *Union of India & Ors. vs. Mahajan Industries Ltd. & Anr.*<sup>2</sup> Which has taken note of the

earlier judicial view of the Delhi High Court in this behalf. He has also referred to the judgment of this Court in the case of *Union of India & Ors. vs. Dev Raj Gupta & Ors.*<sup>3</sup>. Both these judgments emanate from the Delhi Development Act, 1957.

Suffice for us to say the principles laid down in these judgments would be taken into account while calculating the amount of charges which will be admissible and payable by respondent No. 1.

The special leave petition is, accordingly dismissed.

Pending application stand disposed of.

[CHARANJEET KAUR]  
ASTT. REGISTRAR-cum-PS

[POONAM VAID]  
COURT MASTER (NSH)