

Record of Proceedings - Part II

ITEM NO.301

COURT NO.4

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)

(IN RE: SEALING ISSUE(1) REPORT NO. 147 SUBMITTED BY MONITORING COMMITTEE

(2) IA NOS. 60511 AND 60518/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O VINOD SAHNI AND ANR.)

(3) IA NOS. 61593 AND 61594/2019 (APPLNS. FOR DIRECTIONS AND EXEMPTION FROM FILING O.T. ON B/O KKH EXIM PVT. LTD. AND ANR.)

(4) IA NO. 47608/2019 (APPLN. FOR DIRECTIONS ON B/O M/S RAMAYA)

IN RE: KANT ENCLAVE (1) IA NO. 63050/2019 (APPLN. SEEKING PERMISSION TO MAKE DEPOSIT OF AMOUNTS IN THREE INSTALMENTS ON B/O M/S R. KANT AND CO.)

(2) IA NO. 62958/2019 (APPLN. FOR EXTENSION OF TIME ON B/O SH. VISHWA NATH AGRAWAL AND ANR.

Date : 16-04-2019 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Counsel for parties

Mr. Ranjit Kumar, Sr. Advocate (A.C.)

Mr. A.D.N. Rao, Advocate (A.C.)

Mr. Sudipto Sircar, Adv.

Mr. Rishi Raj Sharma, Adv.

Ms. Anitha Shenoy, Sr. Advocate (A.C.)

Petitioner-In-Person

Mr. A.N.S. Nadkarni, ASG

Ms. Suhasini Sen, Adv.

Ms. Archana Pathak Dave, Adv.

Mr. D.L. Chidananda, Adv.

Mr. Gurmeet Singh Makker, Advocate

Mr. Bhavanishankar V. Gadnis, Adv.

Ms. Shraddha Deshmukh, Adv.

Mr. S.S. Rebello, Adv.

Mr. Zohib Hussain, Adv.
Mr. Rajesh Kr. Singh, Adv.
Mr. Raj Bahadur Yadav, Adv.
Ms. Anil Katiyar, Advocate

Mr. Sanjiv Sen, Sr. Adv.
Mr. Praveen Swarup, Advocate
Mr. Sayan Ray, Adv.
Mr. Soumo Palit, Adv.
Mr. Ajay Bansal, Adv.
Mr. Madan Mohan, Adv.
Mr. Ajay Kumar Giri, Adv.
Mrs. Veena Bansal, Adv.
Mr. Gaurav Yadava, Adv.

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Jaladhar Das, Adv.
Mr. Dinesh C. Pandey, Advocate

Mr. C.S. Vaidyanathan, Sr. Adv.
Ms. Nalini, Adv.
Mr. Lokesh Bholra, Adv.
Mr. Archit Upadhyay, Adv.
Mr. Karan G., Adv.
Ms. Harshita Agrawal, Adv.

Mr. P.S. Patwalia, Sr. Adv.
Ms. Misha Rohtagi Mohta, Advocate
Mr. Saurav Agarwal, Adv.
Mr. Nakul Mohta, Adv.
Ms. Aakriti Dawar, Adv.
Mr. Johnson Subba, Adv.

Mr. Anil Grover, AAG
Ms. Noopur Singhal, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kumar Visen, Advocate

Mr. Abhimanyu Bhandari, Adv.
Ms. Roohina Dua, Adv.
Mr. Chetanya Madan, Adv.
Mr. Naveen Kumar, Adv.

Ms. Garima Prashad, Advocate
Mr. G.S. Oberoi, Adv.
Ms. Navjot Neelam, Adv.
Mr. Mohit Kumar Bansal, Adv.

Mr. B.V. Balram Das, Advocate

Mr. D.N. Goburdhun, Advocate
Ms. Gauri Goburdhun, Adv.

Mr. Naveen Kumar, Advocate

Mr. Anand Mishra, Advocate

Mr. Shivaji M. Jadhav, Advocate

Mr. T.V. George, Advocate

Ms. Sharmila Upadhyay, Advocate

Mr. Santosh Mishra, Advocate

Mr. Tejaswi Kumar Pradhan, Advocate

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

(1) REPORT NO. 147 SUBMITTED BY MONITORING COMMITTEE

Perused the Report No.147 submitted by the Monitoring Committee.

Mr. A.N.S. Nadkarni, learned Additional Solicitor General of India, on behalf of the Union of India and also counsel on behalf of STF and DDA have prayed for some time to submit response.

Three weeks' time is granted.

List in the month of July, 2019.

(2) IA NOS. 60511 AND 60518/2019 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON B/O VINOD SAHNI AND ANR.

Considered these applications.

I.A. No.60511/2019 is allowed to the limited extent with respect to the directions contained in I.A. No.60518.2019.

A show cause notice has been issued to the applicant by the Monitoring Committee regarding permanent de-sealing of the stilt area of property No.DD-34, Kalkaji, New Delhi-110019. The applicant is running partnership firm of Chartered Accountants in the area in question. It has been noted by the Monitoring Committee that Executive Engineer (Building) has failed to answer queries made by the Monitoring Committee regarding the eligibility criteria for doing the professional activities from the basement under para 15.8 of the Master Plan of Delhi, 2021 (for short 'MPD,

2021'). Further, road width, additional FAR charges, structural stability certificate and NOC from the Fire Department have not been filed with the Report.

Since it is open to the applicant(s) to show cause to the said notice, let them furnish the reply along with the documents and participate in the hearing before the Monitoring Committee that is scheduled for 24.04.2019 at 11.00 A.M.

The applicant(s)/Mr. Vinod Sahni and Mr. Dinesh Kumar shall be heard and in case any order is passed adverse to the interest of the applicants, it may not be given effect to till the next date of hearing by this Court.

List on 26.04.2019.

(3) IA NOS. 61593 AND 61594/2019 (APPLNS. FOR DIRECTIONS AND EXEMPTION FROM FILING O.T. ON B/O KKH EXIM PVT. LTD. AND ANR.)

These applications have been filed for issuance of the directions/exemption from filing O.T. by KKH Exim Private Limited and KKH Commercial Pvt. Ltd.

It was submitted that no notice was issued by the Sub Divisional Magistrate or the South Delhi Municipal Corporation (SDMC).

Learned senior counsel appearing for the SDMC has stated that he has verified that SDMC has not issued any notice to the applicants. He has also placed on record a Report which has been submitted to the Monitoring Committee, in which it has been pointed out that a structure exists at least from 2012-13. Therefore, the structure must be protected under The National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011. There are certain documents which have been referred to in the Report of the SDMC that certain structure was there since long and tax etc., has also been paid.

It was also submitted that the applicants have filed their representation to the Monitoring Committee. SDMC has also filed its Report before the Monitoring Committee. In case the Report, as above, has not been filed by SDMC, let it be filed before the

Monitoring Committee by 18.04.2019.

It was submitted on behalf of the applicants that there is no commercial misuse of the premises in question, as such no action was warranted against it. He has relied upon a decision of this Court dated 15.12.2017 in M.C. Mehta v. Union of India & Ors, Vishvjyoti Overseas Pvt. Ltd., & Ors: In Re, (2018) 2 SCC 144.

The applicants to appear before the Monitoring Committee on 18.04.2019 at 12.00 Noon. A copy of the Report of the SDMC has also been handed over to the learned counsel for the applicants in the Court today.

Let the Monitoring Committee take a decision within seven days and let order be placed before this Court on the next date of hearing. Let the S.D.M. Mehrauli be also associated in the hearing.

Let this order be communicated to the Monitoring Committee during the course of the day.

List on 26.04.2019.

(4) IA NO. 47608/2019 (APPLN. FOR DIRECTIONS ON B/O M/S RAMAYA)

Mr. A.D.N. Rao, learned Amicus Curiae, has prayed for some time to file reply to this application.

List on 06.05.2019.

Let reply be filed in the meantime.

IN RE: KANT ENCLAVE (1) IA NO. 63050/2019 (APPLN.SEEKING PERMISSION TO MAKE DEPOSIT OF AMOUNTS IN THREE INSTALLMENTS ON B/O M/S. R. KANT AND CO.)

The applicants are put at notice through their counsel Mr. Dinesh C. Pandey, Advocate-on-Record.

Learned senior counsel appearing for the applicant(s) has tendered six separate demand drafts in the name of Registrar, Supreme Court of India for a total amount of Rs.3.07 Crores on behalf of the creditors i.e. Capt. Gobind Kant Sharma (representing

Sharma Group) and Mr. Arun Gupta (representing Gupta Group), which shall be accepted and deposited.

Let the remaining amount be deposited on or before 22.04.2019, as per previous order, all the concerned persons to be present in the Court on 22.04.2019.

It is submitted by Mr. Krishnan Venugopal, learned senior counsel for the applicant(s) that liabilities are as per the partnership deed.

We make it very clear that this Court expects full compliance of the order and the partnership dispute will not be a saviour for them.

List on 22.04.2019.

IN RE: KANT ENCLAVE (2) IA NO. 62958/2019 (APPLN. FOR EXTENSION OF TIME ON B/O SH. VISHWA NATH AGRAWAL AND ANR.)

Considered the application.

Let the amount be deposited on or before 22.04.2019, as already ordered all the persons concerned to be present in the Court on 22.04.2019.

List on 22.04.2019.

With respect to the Disbursing Authority let a proposal be submitted.

List on 22.04.2019.

(NARENDRA PRASAD)
COURT MASTER

(HARI SWAROOP PARASHER)
ASSISTANT REGISTRAR

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HON'BLE MR. JUSTICE DEEPAK GUPTA

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Ms. Anitha Shenoy, Sr. Advocate (A.C.)

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Mr. D.N. Goburdhun, Advocate

Mr. Archit Upadhyay, Advocate
Mr. Naveen Kumar, Advocate
Ms. Misha Rohtagi Mohta, Advocate
Mr. Gurmeet Singh Makker, Advocate
Mr. Dinesh C. Pandey, Advocate
Mr. Sanjay Kumar Visen, Advocate
Mr. Anand Mishra, Advocate
Mr. Shivaji M. Jadhav, Advocate
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List on 26.04.2019.

(NARENDRA PRASAD)
COURT MASTER

(HARI SWAROOP PARASHER)
ASSISTANT REGISTRAR

P.S.: Record of Proceedings-Part II will follow.
(appearance will be marked in Part II proceedings)