

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 &amp; ORS.

Respondent(s)

(IN RE: SEALING ISSUE(1) REPORT NO. 144 SUBMITTED BY MONITORING COMMITTEE

(2) IA NOS. 21344 AND 21346 OF 2018 (APPLNS. FOR IMLEADMENT AND DIRECTIONS ON BEHALF OF PALAM EXTENSION MAIN MARKET WELFARE ASSOCIATION)

(3) REPORT NO. 128 SUBMITTED BY MONITORING COMMITTEE

(4) IA NOS. 50339, 50336/2018, 178768/2018 AND 4920/2019 (APPLNS. FOR PERMISSION, DIRECTIONS, PERMISSION TO BRING ADDITIONAL DOCUMENTS ON RECORD AND DIRECTIONS ON B/O RESIDENTS ASSOCIATION SINGLE STOREY, VIJAY NAGAR ALONGWITH REPORT NO. 139 OF THE MONITORING COMMITTEE)

(5) 179279 AND 179280/2018 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF AMARNATH SAHANI AND ORS.)

(6) IA NOS. 9387/2018, 9402/2018, 9410/2018, 9423/2018, 9427/2018, 9432/2018, 9435/2018, 9441/2018, 9447/2018, 9458/2018, 9462/2018, 9470/2018, 9480/2018, 9490/2018, 9499/2018, 9509/2018, 9514/2018, 9519/2018, 9529/2018, 9534/2018, 9538/2018, 9542/2018, 9546/2018, 9553/2018, 9561/2018, 9563/2018, 9567/2018, 9574/2018, 9586/2018, 9591/2018, 9645/2018, 9664/2018, 9675/2018, 9687/2018, 9695/2018, 9697/2018, 9705/2018, 9712/2018, 9718/2018, 9723/2018, 9771/2018, 9773/2018, 9844/2018, 9852/2018, 9856/2018, 9860/2018, 9863/2018, 9869/2018 (APPLNS. FOR SEEKING ISSUANCE OF DIRECTIONS TO SDMC/MONITORING COMMITTEE TO DE-SEAL PREMISES)

(7) IA NO. 105251/2018 (APPLN. FOR DIRECTIONS ON B/O HDFC BANK LTD.)ALONGWITH REPORT NO. 132 SUBMITTED BY MONITORING COMMITTEE

(8) IA NO. 124213/2018 (APPLN. FOR DIRECTIONS ON B/O KOTAK MAHINDRA BANK LTD.)ALONGWITH REPORT NO. 132 SUBMITTED BY MONITORING COMMITTEE

(9) IA NO. 29126/2019 (APPLN. FOR INTERVENTION IN IA NO. 105251/2018 AND 124213/2018 ON B/O BANK OWNERS ASSOCIATION)

(10) IA NO. 1699/2018 (APPLN. FOR DE-SEALING ON B/O RAJ GUPTA)

(11) IA NOS. 158060/2018 (APPLNS. FOR DIRECTIONS ON B/O BIRD TRAVELS (P) LTD. AND ANR. ALONGWITH REPORT NOS. 137 AND 138 SUBMITTED BY MONITORING COMMITTEE)

(12) REPORT NO. 145 SUBMITTED BY MONITORING COMMITTEE

(13) STATUS OF GROUND WATER(14) IN RE: KANT ENCLAVE MATTERS (DISPOSED OF)

With

SLP(C) No.33454/2018

(FOR ADMISSION and I.R. and IA No.182976/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.182977/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 08-03-2019 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.)  
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Ms. Srishti Agnihotri, Adv.  
Ms. Saumya Singh, Adv.

Mr. Tushar Mehta, SG  
Mr. Anil Grover, AG, Haryana  
Ms. Noopur Singhal, Adv.  
Mr. Satish Kumar, Adv.  
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Mr. Saeed Qadri, Adv.  
Mr. Gaurva Yadva, Adv.  
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Mr. Shyam Divan, Sr. Adv.  
Mr. Ateev Mathur, Adv.  
Ms. Jagriti Ahuja, Adv.  
Mr. Gagan Gupta, Advocate

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Ateev Mathur, Adv.  
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Mr. Varun Singh, Adv.  
Mr. Lelin Raj K., adv.  
Ms. Deepika, Adv.  
Ms. Shrishti, Adv.  
Mr. Kapish, Adv.

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

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

#### Petitioner-In-Person

Mr. Arvind Kumar Sharma, Advocate

Mr. Chirag M. Shroff, Advocate  
Ms. Neha Sangwan, Adv.

Mr. Amarjit Singh Bedi, Advocate  
Mr. Varun Chandiok, Adv.  
Ms. Riya Seth, Adv.

Mr. Yoginder Handoo, Advocate  
Mr. Anil Grover, Adv.

Ms. Kaveeta Wadia, Advocate  
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Ms. Nishtha Kumar, Advocate  
  
Mr. Arvind Gupta, Advocate  
Mr. Sanjeev Kumar Verma, Adv.  
  
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

**REPORT NO. 144**

It is submitted by the learned Amicus Curiae and other counsel, Report 144 should be considered after the decision is rendered as to the Master Plan of Delhi, 2021.

List immediately after the decision is taken in the matter relating to Master Plan of Delhi, 2021.

Ref: WPC No.11804/2018 (Mass Hospitality and Anr. v. Monitoring Committee & Anr.)

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We have issued notice in this matter on 14.01.2019.

Considered the Report and the reply. Following is the report with respect to the Banquet Hall at Ring Road, Raja Garden, New Delhi. The Monitoring committee has pointed out thus:-

“(a) The Monitoring Committee on the complaint dated 08.06.2018, visited the site on the banquet Hall with the name and style of “The Venetian” on 06.09.2018 and noticed that the banquet Hall below the Raja Garden Flyover was being operated in violation of the provisions of MPD-2021 and Building Bye-laws applicable at the relevant time. The flyover is on the middle portion of the ring road i.e. there is road on both sides of the flyover. The said banquet Hall is a continuous threat to the flyover and movement of traffic at night as and when any function is held in the said banquet Hall. Earlier, is an encroachment of the Right of Way (ROW).

(b) As per details made available by the PWD department, way back in 2011, Delhi Govt. vide Cabinet Decision 1772 dated 02.05.2011, decided as under:-

Subject: Proposal for authorization by PWD to DTTDC for operation and management of Neighbourhood Cultural Centre built below Raja Garden Flyover and revenue sharing arrangements between PWD, Government of Delhi and Delhi Tourism & Transportation Development Corporation Limited (DTTDC) and appointment of Asset Manager by DTTDC for utilization of Neighbourhood Cultural Centre (Raja Garden).

Decision: The Cabinet considered the Note of Pr. Secretary (PWD) and approved the proposal as contained in Para -14 of the Cabinet Note. The Cabinet noted that large spaces have been created under flyovers which, if let un-utilised, are getting encroached by squatters etc., spoiling the entire aesthetics. Under several flyovers temporary structures including tents are being-built creating a potential danger to the safety of the flyover. The cabinet further noted that these spaces are no way reducing the carriageway or causing any impediment to the flow of traffic. It is therefore, essential to utilize these spaces to improve the aesthetics through construction of temporary structures. The Cabinet, therefore, also decided that PWD should prepare a policy

for utilization of such spaces and refer it to DDA.

From the above Note, it is amply clear that Cabinet had taken the decision to enhance the aesthetics of the area below the Raja Garden flyover keeping in view the danger to the safety of the flyover and any impediment to the flow of traffic. However, PWD along with DTTDC in utter violation of the decision taken by the Cabinet entered into an agreement with M/s. Sarvam Cultural World Pvt. Ltd. for running banquet Hall under the Raja Garden flyover.

(d) Subsequently, the Monitoring Committee vide letter dated 09.10.2018 and 25.10.2018 respectively had given clear directions to seal the above property on account of reported violations.

(e) Accordingly, Addl. Chief Secretary (Home/PWD), Delhi Govt. vide its letter No.F4/439/PWD/Misc/2017/PS: PWD/7623-7628 dated 26.10.2018 conveyed to Commissioner, SDMC and DC/West Zone that PWD has no objection nor any further role in taking this action of sealing and, therefore, requested to comply with the directions of the Monitoring Committee.

(f) Consequently, DC/West Zone has issued a Show Cause Notice to the property owner/occupier vide letter No.D/1632/EE(B)-I/WZ/2018 dated 29.10.2018.

(g) However, the owner/occupier namely M/s. Mass Hospitality and Another had approached the Delhi High Court by way of filing WPC No.11804/2018 titled "M/s. Mass Hospitality and Another V/s. Monitoring Committee & Another" and the Hon'ble High Court vide its order dated 31.10.2018 has granted stay on the sealing operation till the next date of hearing i.e. 27.03.2019, despite knowledge of the fact that sealing action is being taken on the directions of the Monitoring Committee constituted under the directions of the Hon'ble Supreme Court.

h) That the matter was discussed, in detail, in the Meeting convened on 20.11.2018 by the Monitoring Committee and accordingly following directions have been issued to the concerned agencies to ensure compliance.

i) Chief Engineer (PWD)/Delhi Govt. to initiate action for cancellation of the agreement with Delhi Tourism & Transportation Development Corporation Ltd. (DTTDC) by 20.11.2018.

(ii) Special Secretary (PWD) to put up Note seeking approval of the Cabinet for cancellation of the Cabinet Decision No.1772 dated 02.05.2011.

iii) DC/West Zone (SDMC) to file an application before the Division Bench of the Hon'ble High Court by Monday (26.11.2018) positively for vacation of the stay granted."

In the reply filed on behalf of Mass Hospitality to the aforesaid Report, it has been pointed out that they filed a Writ Petition i.e. WPC No.11804/2018 as the action had been initiated as per the aforesaid Report. The petitioners/Mass Hospitality and Another has questioned the show-cause notice dated 29.10.2018 as well as the communication dated 09.10.2018 issued by the Monitoring Committee constituted by this Court.

Mass Hospitality is engaged in the business of banquet hall in the name and style of "The Venetian" under the Raja Garden flyover. An interim order was granted by the High court staying sealing operation till the next date of hearing i.e. 27.03.2019.

Since there is direction by the Monitoring Committee vide letters dated 09.10.2018 and 25.10.2018 and considering the fact that the Banquet Hall under the flyover is being operated in violation of provision of Master Plan of Delhi, 2021 and in violation of the building bye-laws applicable at the relevant time. The flyover is in the middle portion of the ring road and there is road on both the sides of the flyover. The said banquet hall is threat to the flyover as well as when there is marriage procession, obviously it stops the free flow of the traffic and it is clear encroachment on the right of way. Thus, in the circumstances, we direct to stop the operation of the banquet hall with effect from 30.03.2019. The concerned Authority shall ensure that the said banquet hall is sealed after 30.03.2019, as per the order passed by

the Committee and is not used for the purpose it is being used.

This is ordered by way of interim measure, we will take final call on this issue after we decide the matter relating to Master Plan of Delhi, 2021

(2) IA NOS. 21344 AND 21346 OF 2018 (APPLNS. FOR IMLEADMENT AND DIRECTIONS ON BEHALF OF PALAM EXTENSION MAIN MARKET WELFARE ASSOCIATION),

(3) REPORT NO. 128,

(4) IA NOS. 50339, 50336/2018, 178768/2018 AND 4920/2019 (APPLNS. FOR PERMISSION, DIRECTIONS, PERMISSION TO BRING ADDITIONAL DOCUMENTS ON RECORD AND DIRECTIONS ON B/O RESIDENTS ASSOCIATION SINGLE STOREY, VIJAY NAGAR ALONGWITH REPORT NO. 139 OF THE MONITORING COMMITTEE),

(5) 179279 AND 179280/2018 (APPLNS. FOR INTERVENTION AND DIRECTIONS ON BEHALF OF AMARNATH SAHANI AND ORS.),

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(7) IA NO. 105251/2018 (APPLN. FOR DIRECTIONS ON B/O HDFC BANK LTD.)ALONGWITH REPORT NO. 132 SUBMITTED BY MONITORING COMMITTEE,

(8) IA NO. 124213/2018 (APPLN. FOR DIRECTIONS ON B/O KOTAK MAHINDRA BANK LTD.)ALONGWITH REPORT NO. 132 SUBMITTED BY MONITORING COMMITTEE,

(9) IA NO. 29126/2019 (APPLN. FOR INTERVENTION IN IA NO. 105251/2018 AND 124213/2018 ON B/O BANK OWNERS ASSOCIATION),

(10) IA NO. 1699/2018 (APPLN. FOR DE-SEALING ON B/O RAJ GUPTA),

(12) REPORT NO. 145 SUBMITTED BY MONITORING COMMITTEE

List after the decision is taken in the matter relating to Master Plan of Delhi, 2021.

Report No.139 shall also be placed for consideration on that day.

(11) IA NOS. 158060/2018 (APPLNS. FOR DIRECTIONS ON B/O BIRD

**TRAVELS (P) LTD. AND ANR. ALONGWITH REPORT NOS. 137 AND 138  
SUBMITTED BY MONITORING COMMITTEE)**

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List for hearing on 25.03.2019.

**(13) STATUS OF GROUND WATER**

Let the report be furnished to Mr. Ranjit Kumar, learned senior counsel and Mr. A.D.N. Rao, learned counsel, who are Amicus Curiae in this matter, for consideration in the first week of April, 2019.

**(14) IN RE: KANT ENCLAVE MATTERS**

Mr. Tushar Mehta, learned Solicitor General of India, has prayed for some time to place a copy of the Act on record.

List in the first week of April, 2019.

Interim order shall continue to operate until further orders.

As prayed by Mr. Tejaswi Kumar Pradhan, learned counsel appearing on behalf of Mr. Dinesh Kumar Aggarwal and Mr. Vishwanath Aggarwal, Registry may accept the Demand Drafts for a sum of Rs.78,00,000/- (Rupees Seventy Eight Lacs), which shall be furnished during the course of the day, in that event, the said amount shall be kept in Fixed Deposit Account(s) initially for a period of three months and shall be renewed periodically.

(NARENDRA PRASAD)  
COURT MASTER

(JAGDISH CHANDER)  
COURT MASTER