

ITEM NO.301

COURT NO.5

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

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

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

(4) 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)

Date : 28-01-2019 This matter was called on for hearing today.

CORAM :

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

For the parties

Mr. Ranjit Kumar, Sr. Advocate (A.C.)
Mr. A.D.N. Rao, Advocate (A.C.)
Ms. Anitha Shenoy, Advocate (A.C.)
Ms. Srishti Agnihotri,Adv.

Mr. A.N.S. Nadkarni,ASG
Mr. S.W.A. Qadri,Adv.
Mr. D.L. Chidananda,Adv.
Mr. Ritesh Kumar,Adv.
Ms. Suhasini Sen,Adv.
Mr. G.S. Makker,Adv.
Mr. R. Balasubramanium,Adv.
Mr. Sachin Sharma,Adv.
Mr. A.K. Kaul,Adv.
Mr. Pranay Ranjan,Adv.
Mr. Raj Bahadur Yadav,Adv.

Mr. B.V. Balram Das, Advocate
Ms. Anil Katiyar, Advocate

Mr. Shyam Divan, Sr. Adv.
Ms. Varsha, Adv.
Mr. Sanjay Gupta, Adv.
J. Ahuja, Adv.
Mr. Ateev Mathur, Adv.
D. Bansal, Adv.

Mr. Shyam Diwan, Sr. Adv.
Mr. Kalyan Arambam, Adv.
Mr. Anuj Berry, Adv.
Mr. Virender Mehta, Adv.
Ms. Meera Mathur, Advocate

Mr. Sanjiv Sen, Sr. Adv.
Mr. S. Wasim A. Qadri, Adv.
Mr. Zaid Ali Subzposh, Adv.
Mr. Praveen Swarup, Advocate
Mr. Sayan Ray, Adv.
Mr. Soumo Palit, Adv.

Mr. Dhruv Mehta, Sr. Adv.
Mr. Sanjay Gupta, Adv.
Mr. Varsha K., Adv.
Ms. Jagriti Ahuja, Adv.
Mr. Ateev Mathur, Adv.
D. Bansal, Adv.

Petitioner-In-Person

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

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

Mr. Nalin Kohli, Adv.
Mr. U. Singh Kochhar, Adv.
Mr. Gagan Gupta, Advocate
Mr. Ankit Roy, Adv.

Ms. Amita Gupta, Advocate

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

IA NOS. 105251 & 124213 OF 2018

Learned counsel appearing on behalf of the NDMC/SDMC have stated before us that in reply to the show cause notices, the representative of the concerned banks have not appeared before them and so far basement is concerned, it is open to carry on the bank lockers, subject to the conditions imposed by the NDMC/SDMC. However, individual cases have to be examined. A public notice has also been issued to the banks but the individual banks have not placed their cases before NDMC/SDMC.

Let the representative of the individual banks appear before the competent authority i.e. Deputy Commissioner of the concerned Zone of the Corporation. For NDMC the parties to appear before the competent authority on 07.02.2019 at 11.00 A.M. and for SDMC the date for appearance is fixed for 08.02.2019 at 11.00 A.M.

Let a decision be taken by the Municipal Corporations within a week thereafter and place the same on record.

Interim order shall continue to operate till the next date of hearing.

List on 18.02.2019, for consideration.

IA.1699/2018

Let SDMC file its reply to the additional affidavit.

List on 18.02.2019 for consideration.

IA.158060/2018

In view of the reports of the Monitoring Committee i.e.

Report Nos.137 dated 08.11.2018 & No.138 dated 12.11.2018, the matter is required to be heard as to I.A. No.158060 of 2018.

List for hearing on 25.02.2019.

Pleadings be completed in the meantime.

Report No.145

Considered the report No.145 dated 24.01.2019.

Mr. Ranjit Kumar, learned senior counsel, who is appearing as an amicus in this matter has pointed out before us the order dated 23.01.2019 passed in LPA No.6/2019 by the Division Bench of the High Court of Delhi at New Delhi. Suffice it to say that vide judgment dated 15.12.2017 (in I.A. Nos.93010 and 93007 of 2017 in W.P (C) No.4677/1985, reported in (2018) 2 SCC 144), this Court has passed a judgment and observed in paragraphs 38 and 39, as under:-

“38. We make it clear that henceforth it will not be necessary for any person whose residential premises have been sealed for misuse for any commercial (other than industrial) purposes at the instance of the Monitoring Committee to file an appeal before the appropriate statutory Appellate Tribunal. Instead, that person can directly approach the Monitoring Committee for relief after depositing an amount of Rs. 1,00,000/- with the Monitoring Committee which will keep an account of the amounts received by it. Any person who has already filed an appeal before the appropriate statutory Appellate Tribunal but would prefer approaching the Monitoring Committee may withdraw

the appeal and approach the Monitoring Committee for relief on the above terms and conditions and on deposit of Rs. 1,00,000/- as costs with the Monitoring Committee, provided that the premises were sealed at the instance of the Monitoring Committee. Any challenge to the decision of the Monitoring Committee will lie to this Court only. We are constrained and compelled to make this order given the history of the case and the more than serious observations of this Court of an apparent nexus between some entities and the observations regarding corruption and nepotism.

39. We make it clear that this order will enure to the benefit of only those who are using residential premises for commercial purposes (non-industrial) or for any other non-residential purpose and whose premises were sealed at the instance of the Monitoring Committee. This order will not at all enure for the benefit of anybody using residential premises for any industrial activity of any sort or nature whatsoever."

(Emphasis supplied)

This Court has made it clear that any challenge to the decision of the Monitoring Committee will lie to this Court only. Apart from that this was reiterated again by this Court. On 07.09.2018, this Court, inter alia passed the following order:-

"... It is stated that some of the defaulting individuals/organizations are approaching the Courts - whether it is the High Court or the District Court and even in one case the State

Consumer Disputes Redressal Commission.

It is submitted by the Monitoring Committee that these Courts and the Commission do not have any jurisdiction over these issues in view of the order passed by this Court.

The learned Amicus will bring it to the notice of the Courts and the Commission that prima facie jurisdiction does not lie with them leaving it for the Courts to take a decision in the matter."

Again on 27.11.2018, the Court, inter alia, passed the following order:-

"... The Monitoring Committee has brought to our notice that other Courts/Tribunals/Authorities including the State Consumer Commission and District and Sessions Judge are entertaining the petitions despite order passed by this Court.

We have requested Mr. A.D.N. Rao to look into these cases. We reiterate that no Court or Tribunal or any other Authority shall look into these matters as well as the petitions which are pending before us."

In view of the aforesaid, prima facie, we stay the operation of the order dated 23.01.2019 passed by the High Court of Delhi at New Delhi in LPA No.6/2019 and restrain the High Court to entertain any petition in connection with the matters relating to the Monitoring Committee, as these matters are to be heard by this Court only.

Let the concerned parties respond to Report No.145.

List on 18.02.2019.

Mr. Nalin Kohli, learned counsel, appearing on behalf of Mr. Gagan Gupta, Advocate-on-Record, seeks to mention interlocutory applications for intervention and directions, which he propose to file on behalf of All India Digamber Jain Society Delhi. The said I.As are rejected and be updated as such, upon being filed in the Registry.

(NARENDRA PRASAD)
COURT MASTER

(JAGDISH CHANDER)
COURT MASTER