2017 INSC 1242

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NOS. 93010 AND 93007/2017

IN

WRIT PETITION (C) NO. 4677 OF 1985

M.C. Mehta ... Petitioner

Versus

Union of India & Ors. ... Respondents

IN RE: VISHVJYOTI OVERSEAS (P) LTD. & ORS. ..Applicants

J U D G M E N T

Madan B. Lokur, J.

1. Invaders have pillaged Delhi for hundreds of years, but for the last couple of decades it is being ravaged by its own citizens and officials governing the capital city – we refer to unauthorized constructions and misuse of residential premises for industrial and other commercial purposes. This Court has focussed on these illegal activities in several decisions and has issued directions from time to time to try and bring some sanity to urban living but to little or no effect. The applications before us, the chronology of events and the historical developments

leading up to these applications has given cause to reflect and decide on some of these issues keeping our constitutional obligations in mind.

Decision of 7th May, 2004

2. Way back in the 1990s it was brought to the notice of this Court that a variety of illegal activities were being carried on in the capital city of Delhi with reference to industries established in residential or non-conforming areas as well as misuse of residential premises for other commercial purposes. On an application having been moved, this Court realized that those in authority and power were not at all keen to take steps to remove hazardous and noxious industries and heavy and large industries out of Delhi, prohibit or prevent the continuing illegalities or even otherwise stop the misuse of residential premises for a commercial purpose. Since the attitude of the powers that be raised an issue of mis-governance or non-governance affecting the well-being of the citizens of Delhi, this Court felt that it could no longer be a mute spectator to the whims and fancies of those in power and authority. It was also felt that it would be necessary to direct those in authority and power to implement the law for the sake of the citizens of Delhi. This Court faced a situation where there was little or no support to the rule of law by the concerned officials and today the citizens of Delhi are faced with and are witnessing, among other issues, outrageous levels of pollution in Delhi entirely due to

the lack of concern for the rule of law – the citizens of Delhi are paying a heavy price with hopelessly polluted air to breathe and consequent damage to their lungs, respiratory problems and possible damage to the brain of infants and children.

3. M.C. Mehta, an environmental activist, had already moved this Court with an application to find a remedy for the air pollution in Delhi in a pending writ petition. Although he sought several reliefs, this Court first concentrated on use of residential areas for industrial purposes and later, the misuse of residential premises for other commercial activities. For the present, we are concerned with the misuse of residential premises for other commercial activities. These issues first arose when preliminary orders were passed by this Court on his application on 30th September, 2002 and 19th August, 2003. Thereafter, this Court addressed the issue of residential areas being used for industrial purposes by a judgment and order dated 7th May, 2004 in ***M.C. Mehta v. Union of India***.[1]

4. A reading of the judgment and order dated 7th May, 2004 makes it apparent that this Court expected all those concerned with governance of Delhi to adhere to the rule of law and ensure its implementation. Unfortunately, this Court was anguished by events that demonstrated that the trust reposed was belied in terms of action for implementation of the law and that industrial activity continued in areas despite the Master Plan

[1] (2004) 6 SCC 588

for Delhi, meaning thereby that impermissible industrial activity continued in residential areas in Delhi.

5. This Court also noted that no dispute was raised by the Government of India or the Delhi Government or by any statutory authority that unauthorised and illegal industrial activity had commenced and continued in Delhi in blatant breach of the provisions of the Master Plan and no action, or ineffective action, had been taken by the concerned authorities. Rather than put their respective houses in order, it was noted that a blame game had begun with the responsibility of taking action being shifted with each authority blaming one another - be it the Government of India or the Delhi Government or the statutory authorities. Tragically, the situation continues even today and those who are suffering are the citizens of Delhi, the sufferance being not only confined to breathing hazardous and noxious air but also the health of thousands of people including children and infants residing in Delhi. In other words, the consequences of the failure to implement the rule of law in Delhi were having a generational impact, which cannot be anything but disastrous.

6. This Court noted that according to the Delhi Government it is not the function of the State Government to implement the Master Plan. According to the Government of India it is not the implementing agency

and this Court noted that the Government of India had taken a somersault in this regard. According to other statutory authorities in Delhi, they too avoided shouldering any responsibility for inaction. Each of these authorities of the State was shifting their stands, as convenient, without any regard for statutory provisions and in blatant breach of the rule of law. This Court darkly hinted that in all this there was connivance with industry for extraneous considerations.

7. Accordingly, this Court felt it appropriate to appoint a Monitoring Committee to oversee and ensure compliance with the directions given by this Court in its decision of 7th May, 2004 with regard to industrial activity in residential or non-conforming areas in Delhi.

Decision of 16th February, 2006

8. In a subsequent decision dated 16th February, 2006 in ***M.C. Mehta v. Union of India***[2] this Court again noted flagrant violations of various laws including municipal laws, the Master Plan and other plans besides environmental laws that had been engaging the attention of this Court for several years. It was noted that several orders were passed from time to time only to secure implementation of the laws and to protect the fundamental rights of citizens since it was the constitutional duty of this Court.

[2] (2006) 3 SCC 399

9. This Court also considered an extremely pertinent issue: what would happen when those entrusted by law to protect the rights of the citizens are themselves violators and/or abettors of the violations? The difficult task faced in such a situation was noted where, as a part of its constitutional duty, this Court is required to preserve the rule of law so that people may not lose faith in it and also point out violations of the rule of law by those who are supposed to implement the law. It was observed that the issue is not one of an absence of law but of its implementation.

10. Having passed orders on 7th May, 2004 relating to unauthorized industrial activity in Delhi and being compelled to set up a Monitoring Committee, this Court focused its attention on yet another problem facing the citizens of Delhi, namely, that of misuse of residential premises for commercial purposes. In the decision dated 16th February, 2006 in ***M.C. Mehta***, this Court noted in paragraph 53 of the Report that it cannot remain a mute spectator when violations of the law affect the environment and the healthy living of those who abide by the law. It was stated, and the pain and anguish of this Court is quite apparent:

> "Despite its difficulty, this Court cannot remain a mute spectator when the violations also affect the environment and healthy living of law-abiders. **The enormity of the problem which, to a great extent, is the doing of the authorities themselves, does not mean that a beginning should not be made to set things right.** If the entire misuser cannot be stopped at one point of time because of its extensive nature, then it has to be stopped in a phased manner, beginning with major violators. **There has to be a will to do it.** We have hereinbefore noted in brief the orders

> made in the last so many years but it seems the same has had no effect on the authorities. The things cannot be permitted to go on in this manner forever. On one hand, various laws are enacted, master plans are prepared by expert planners, provision is made in the plans also to tackle the problem of existing unauthorised constructions and misusers and, on the other hand, such illegal activities go on unabated openly under the gaze of everyone, without having any respect and regard for law and other citizens." [Emphasis supplied by us].

11. This Court observed that if the laws are not enforced and orders of the Courts to implement the laws are ignored, the result can only be total lawlessness. In the decision rendered on 16th February, 2006 this Court noted, quite explicitly and not in a veiled manner, that blatant misuse of properties in Delhi for commercial purposes on such a large-scale could not take place without the connivance of the officers and that it was therefore necessary to take action to check corruption, nepotism and total apathy towards the rights of citizens – and we may add, chaos and disaster. This Court noted that there must be some accountability not only of those violating the law but also of those errant officers who turn a blind eye to the misuse of residential premises for commercial purposes. It was observed in paragraph 61 of the Report as follows:

> **"**Despite passing of the laws and repeated orders of the [Delhi] High Court and this Court, **the enforcement of the laws and the implementations of the orders are utterly lacking**. If the laws are not enforced and the orders of the courts to enforce and implement the laws are ignored, the result can only be total lawlessness. It is, therefore, necessary to also identify and take appropriate action against officers responsible for this state of affairs. **Such blatant misuse of properties at large-scale cannot take place without connivance of the officers concerned. It is**

> **also a source of corruption. Therefore, action is also necessary to check corruption, nepotism and total apathy towards the rights of the citizens.** Those who own the properties that are misused have also implied responsibility towards the hardship, inconvenience, suffering caused to the residents of the locality and injuries to third parties. It is, therefore, not only the question of stopping the misuser but also making the owners at default accountable for the injuries caused to others. Similar would also be the accountability of errant officers as well since, prima facie, **such large-scale misuser, in violation of laws, cannot take place without the active connivance of the officers**. It would be for the officers to show what effective steps were taken to stop the misuser." [Emphasis supplied by us].

12. In view of the above, this Court directed the Delhi Municipal Corporation (for short the MCD) to give wide publicity in leading newspapers of the requirement that those misusing their residential premises for commercial purposes should cease the misuse on their own. It was also directed that 30 days after the issuance of the public notices, and if the misuse is not stopped, the process of sealing the premises would start. The period of 30 days expired on or about 29th March, 2006.

13. Unfortunately, issuance of the public notices had no impact either on those violating the law or on those expected to implement the rule of law. Perhaps, as observed by this Court, the reason was connivance, corruption, nepotism and total apathy towards the rights of the citizens of Delhi - who are today facing the brunt of the decades of illegalities having been committed.

Decision of 24th March, 2006

14. Faced with this situation, in its decision of 24th March, 2006 in ***M.C. Mehta v. Union of India*** [3] this Court observed that the MCD had issued appropriate notices but, to oversee the implementation of the law regarding residential premises used for commercial (non-industrial) purposes, it would be appropriate to seal offending premises. Therefore, rather than leave any discretion to the officers of the MCD (for obvious reasons) a Monitoring Committee was appointed consisting of Mr K.J. Rao, Former Advisor to the Election Commissioner, Mr Bhure Lal, Chairman, EPCA and Major General (Retd.) Som Jhingan. All necessary facilities to the members of the Monitoring Committee were directed to be provided by the MCD including facility of transport, secretarial services, honorarium etc.

15. As a part of its mandate, the Monitoring Committee was to begin the process of sealing with effect from 29th March, 2006. Some of those who were misusing the premises requested for reasonable time to make alternative arrangements. This Court directed that they should cease the misuse on or before 30th April, 2006 while giving an undertaking to this Court that misuse would be stopped. Some others were given time till 30th June, 2006 subject to their filing an affidavit stating that the misuse would be stopped on or before 30th June, 2006 and no further extension

[3] (2006) 3 SCC 429

would be sought. They were also required to give an undertaking to the effect that if the misuse was not stopped by 30th June, 2006 they would be subject to perjury and contempt of Court. To ensure compliance of the orders of sealing, it was made clear that the sealing process would continue notwithstanding any order passed by any Court and the Delhi Police was directed to extend full support for carrying out the sealing activity.

Delhi Laws (Special Provisions) Act, 2006 and interim stay

16. To get over the orders passed by this Court, which were apparently uncomfortable to the powers that be, the Delhi Development Authority (DDA) modified the Master Plan for Delhi on 28th March, 2006 insofar as the chapter on mixed land use is concerned. Soon thereafter, perhaps by a coincidence, the Government of India moved I.A. 1931 in this Court praying that the local bodies in Delhi be directed to complete the exercise of identification of mixed use of roads/streets in residential areas within a period of six months. As a result of this application and with a view to grant relief, on a temporary basis, in respect of some areas, this Court permitted the Government of India, on 28th April, 2006 to place detailed facts before the Monitoring Committee. The necessary facts were placed by the Government of India before the Monitoring Committee, who heard all concerned including the Government of India and submitted a report

on 4th May, 2006. When the application filed by the Government of India came up for consideration before this Court along with the report of the Monitoring Committee on 11th May, 2006 the Government of India withdrew its application.

17. Why this turnaround? A Bill was pending or perhaps introduced in Parliament which mandated, *inter alia*, a moratorium on all adverse action in respect of unauthorized development, notwithstanding any judgment, decree or order of any Court, by providing for a *status quo* with effect from 1st January, 2006. The Bill was intended to be a temporary measure for one year but has since been re-enacted in some form or another and is now operative till 31st December, 2017. Section 3 of the Bill (as finally enacted) provided as above and it reads as follows:

> 3. (1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Central Government shall within a period of one year of the coming into effect of this Act, take all possible measures to finalise norms, policy guidelines and feasible strategies to deal with the problem of unauthorised development with regard to the under-mentioned categories, namely:-
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> (a) mixed land use not conforming to the Master Plan;
>
> (b) construction beyond sanctioned plans; and
>
> (c) encroachment by slum and Jhuggi-Jhompri dwellers and hawkers and street vendors,
>
> so that the development of Delhi takes place in a sustainable and planned manner.
>
> (2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo* as on the 1st day of January, 2006 shall be maintained in respect of the categories of unauthorised development mentioned in sub-section (1).

> (3) All notices issued by any local authority for initiating action against the categories of unauthorised development referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken during the said period of one year.
>
> (4) Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the expiry of one year, withdraw the exemption by notification in the Official Gazette in respect of one or more of the categories of unauthorised development mentioned in sub-section (2) or sub-section (3), as the case may be.

'Unauthorized development' was defined in Section 2(1)(i) of the Bill (as finally enacted) in the following words:

> (i) "unauthorised development" means use of land or use of building or construction of building carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes encroachment.

18. On 12th May, 2006 the Delhi Laws (Special Provisions) Bill, 2006 was passed by the Lok Sabha and it was passed on 15th May, 2006 by the Rajya Sabha. The Bill received the assent of the President on 19th May, 2006 and was notified on the same day. The statute is hereafter referred to as the Act.

19. The very next day, on 20th May, 2006 the Government of India issued a notification placing a moratorium in respect of all notices issued by the local authorities and directing them to give effect to the provisions

of the Act instead, which virtually restored the *status quo ante*. The following was notified:

> (1) The premises sealed by any local authority in pursuance of a judgment, order or decree of any court after the 1st day of January, 2006 shall be eligible to be restored, for a period of one year, with effect from the 19th day of May, 2006 to the position as was obtaining as on the 1st day of January, 2006.
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> (2) All commercial establishments which are required to cease carrying out commercial activities at their premises by the 30th day of June, 2006 may continue such activities, as they were being carried out on the 1st day of January, 2006 for a period of one year, with effect from the 19th day of May, 2006.

20. However, by the time the Act was enacted and the notification of 20th May, 2006 issued, quite shockingly 40,814 affidavits had been received by the Monitoring Committee. In these affidavits, it was stated that the misuse would be stopped by 30th June, 2006. In addition, 5006 commercial establishments had been sealed by that time. This gives an indication of the magnitude of misuse of residential premises for commercial purposes in Delhi.

21. Feeling aggrieved by the statutory protection given to violators and breakers of the law, quite a few public spirited persons challenged the provisions of the Act as being unconstitutional. A challenge was also made to the notification dated 20th May, 2006. Among the petitioners was Mr. P.K. Dave a former Lt. Governor of Delhi. A request was made by the petitioners for a stay of the operation of the Act and the notification dated 20th May, 2006. The request for interim orders was considered by

this Court in ***Delhi Pradesh Citizens Council v. Union of India***[4] on 10th August, 2006. On that date this Court did not accept the plea for a complete stay of the impugned legislation but it stayed the two directions mentioned above as contained in the notification dated 20th May, 2006. This Court was of opinion that these directions amount to overruling the orders and directions issued by this Court and action taken as a consequence of the orders and directions. This Court clarified that the order of stay would mean that the 5006 sealed premises (if de-sealed) would have to be re-sealed. It also meant that the undertakings given to cease the misuse by 30th June, 2006 would revive. However, considering the events that had taken place as well as the report of the Monitoring Committee, time to stop misuse and comply with the undertaking given in respect of 40,814 commercial establishments was extended till 15th September, 2006.

Decision of 29th September, 2006

22. As is quite evident, the authorities had commenced a cat and mouse game with this Court perhaps to protect the vested interests of those having little or no respect for the rule of law. As a part of the game, the DDA had earlier issued public notices on 21st July, 2006 for amendment of the Master Plan inviting objections to the proposed modifications. Soon thereafter public hearings were conducted and on 5th

[4] (2006) 6 SCC 305

September, 2006 the DDA recommended an amendment of the Master Plan. The Master Plan was accordingly amended and on 7th September, 2006 and 15th September 2006 about 2002 patches/streets were notified for mixed use.

23. The question that then arose for consideration of this Court was whether the stay granted on 10th August, 2006 ought to be modified and whether the notification dated 7th September, 2006 ought to be stayed. This Court considered this question in its decision of 29th September, 2006 in ***M.C. Mehta v. Union of India***[5] and noted that the authorities were now exercising judicial functions - and virtually overruling orders of the Supreme Court of India. Accordingly, a partial stay was granted and it was held in paragraph 20 of the Report:

> "There cannot be any doubt that **the legislature would lack competence to extend the time granted by this Court in the purported exercise of law-making power. That would be virtually exercising judicial functions. Such functions do not vest in the legislature.** In fact, those who gave undertakings are already in breach of the undertakings by not stopping misuser by 30-6-2006. **The dignity and authority of the Court has to be protected not for any individual but for maintenance of the rule of law.** The fact that those who gave undertakings may have been misled in view of the subsequent development can only be a mitigating factor while considering the action to be taken for breach of the undertakings. Further, there are no equities in favour of those who gave undertakings to this Court and obtained the benefit of time, otherwise their premises could have been sealed on 29-3-2006 or soon thereafter. The nature of trade conducted by most of them who gave undertakings has been noted above. There is serious challenge to the validity of the Act and the notification. Pending determination thereof, such persons

[5] (2006) 7 SCC 456

cannot be allowed to claim any benefit of the notification." [Emphasis supplied by us].

It may be mentioned *en passant* that in addition to Mr. P.K. Dave, a former Lt. Governor of Delhi, Mr. Omesh Sehgal a former Chief Secretary of Delhi was also a petitioner before this Court and he described the hearings given by the DDA as a farce since a decision had already been taken to amend the Master Plan even before inviting objections. This is recorded in paragraph 14 of the Report.

24. In the above background this Court passed the following directions on 29th September, 2006:

> ***(i) Re: Premises relating to which undertakings were given***
>
> The commercial activities by those who gave undertakings deserve to be stopped forthwith. Having regard, however, to the plea of forthcoming major festivals, we permit those who gave undertakings to stop misuser on or before 31-10-2006.
>
> ***(ii)*** xxx xxx xxx
>
> ***(iii) Re: Other premises for which protection is extended by the Notification dated 7-9-2006***
>
> Regarding the remaining premises which may be covered by the Notification dated 7-9-2006 read with 15-9-2006 we direct that the said premises may not be sealed pending decision of these petitions on undertakings being filed before the Monitoring Committee on or before 10-11-2006 that misuser shall be stopped as per the directions of this Court if the Act is invalidated and/or the Notification is quashed. .....
>
> ***(iv) Re: Premises for which protection is not extended by the Notification dated 7-9-2006***
>
> In respect of the remaining premises not covered by the Notifications dated 7-9-2006 and 15-9-2006, the sealing process will continue in terms of the order dated 16-2-2006 and 10-8-2006....."

25. In addition to the above, so that the cat and mouse game does not escalate, this Court restrained the respondents (Government of India and other authorities) from issuing any other notification for conversion of residential premises to commercial use, except with the leave of this Court.

I.A. Nos. 93007 and 93010

26. In this background, we are required to consider I.A. No. 93007 and 93010 filed by the applicants (Vishvjyoti Overseas (P) Ltd., Gitanjali Overseas (P) Ltd., Sumangal Promoters (P) Ltd. and Lakshya Construction (P) Ltd.). They had leased out their property that is 5 Sikandra Road, New Delhi to Infinity Knowledge Systems by a lease deed dated 27th December, 2006. Although the subject property was in a residential area, the lease was for commercial purposes thereby indicating the impunity with which orders passed by this Court were flouted by those who wanted to do so and the nature of protection enjoyed by them.

27. In any event, when violation of the orders of this Court came to the knowledge of the Monitoring Committee, the subject property was sealed on 12th October, 2007. Apparently feeling aggrieved by the sealing of the subject property, Infinity Knowledge Systems moved I.A. Nos. 2195-96 (where it is also described as Infinity Business School) in this Court for de-sealing it. On a report having been received from the Monitoring

Committee (Report No. 46 dated 12th November, 2007) this Court passed an order on 13th November, 2007 permitting Infinity Knowledge Systems to continue in the subject property till 30th June, 2008 subject to deposit of conversion charges for the years 2006-2007 and 2007-2008 or from the date of occupation of the subject property whichever is later as penalty for misuse. Infinity Knowledge Systems was also required to file an undertaking that it would deposit the required charges.

28. On 15th November, 2007 an undertaking was filed by the Managing Director of Infinity Knowledge Systems and on 11th December, 2007 Infinity Knowledge Systems was permitted to use the premises till 30th June, 2008 subject to payment of conversion charges. There is no dispute that conversion charges were paid by Infinity Knowledge Systems and the subject property was de-sealed on 14th January, 2008. Thereafter in view of the undertaking to stop misuse of the subject property, it was re-sealed on 1st July, 2008 and we are told that Infinity Knowledge Systems has vacated the subject property. Since then the subject property is said to be lying sealed.

Decision of 30th April, 2013

29. On 30th April, 2013 this Court passed a significant judgment and order in ***M.C. Mehta v. Union of India***.[6] This decision related to the

[6] (2013) 16 SCC 336

challenge to the Act and subsequent legislations extending the provisions of the Act. A few directions were issued but two of them need particular mention: (i) All the writ petitions challenging the Delhi Laws (Special Provisions) Act, 2006 (and subsequent legislations virtually extending the provisions of the Act) and I.As. connected therewith were transferred to the Delhi High Court with a request to hear the matters at an early date, preferably within one year from the date of receipt of the entire records and papers. (ii) The order passed by this Court on 3rd January, 2012 in ***M.C. Mehta v. Union of India***[7] to the following effect would continue:

> "Till the matter is heard by the Court, the Monitoring Committee shall not order further sealing of the premises which are under its scrutiny. We also direct that no construction, temporary or permanent, shall be made on the premises which have been the subject-matter of scrutiny of the Monitoring Committee and no order shall be passed by the Government or any authority regularising such construction or sanction the change of user."

30. With the above orders, this Court disposed of all the pending writ petitions on the challenge to the Delhi Laws (Special Provisions) Act, 2006 and subsequent legislations on the same subject.

31. With regard to the sealing orders passed at the instance of the Monitoring Committee, it was directed, *inter alia*, that: (i) I.As filed in this Court for de-sealing the premises will be treated as statutory appeals and will stand transferred to the appropriate statutory Appellate Tribunal

[7] (2012) 11 SCC 759

for disposal. (ii) Where I.As or statutory appeals have not been filed, this Court granted 30 days time to file an appeal before the appropriate statutory Appellate Tribunal for disposal.

32. Pursuant to the judgment and order dated 30th April, 2013 the subject applications have been filed for permission to appeal to the appropriate statutory Appellate Tribunal against the sealing order. The applications were filed on or about 15th September, 2017 which is well beyond the 30 days grace period granted by this Court.

33. It was submitted by learned counsel for the applicants that this Court has passed several orders permitting the institution of delayed appeals subject to payment of Rs.1,00,000/- towards costs. Therefore, the applicants may also be permitted to file an appeal which should be heard by the appropriate statutory Appellate Tribunal on merits. The applicants say that they have already deposited Rs.1,00,000/- in the Registry of this Court.

34. It seems to us that the applicants are keen to utilise the premises in question for residential purposes, as stated in their application. There is no apparent intention to utilise the premises in question for commercial purposes or for any purpose not permitted by law. That being the position, it would hardly serve any purpose if the applicants are required to formally file an appeal before the Appellate Tribunal which is

apparently already dealing with a very large number of appeals. It would, therefore, be in the fitness of things to de-seal the premises in question for residential purposes subject to certain conditions.

Directions

35. In our opinion, as far as Infinity Knowledge Systems is concerned the following conditions would meet the ends of justice and also provide a safeguard against possible misuse of residential premises for commercial (non-industrial) purposes:

> (1) The applicants will file an affidavit before the Monitoring Committee stating that they will use the premises in question only for residential purposes and for no other purpose whatsoever. The applicants will identify the persons for whose residential use the premises in question are sought to be de-sealed. Any change will be notified to the Monitoring Committee.
>
> (2) The affidavit filed by the applicants will state the name, address and other particulars of the person who will be responsible for any misuse of the premises in question, that is, for use of the premises in question for any purpose other than residential.
>
> (3) The person identified as the person responsible in terms of condition No.2 above will also file an affidavit clearly stating therein that he or she will ensure that the premises in question are used only for residential purposes and that in the event the premises in question are used for any purpose other than residential, the deponent would be liable for contempt of this Court.
>
> (4) The applicants will file with the Monitoring Committee proof of payment of conversion charges to the statutory authority.
>
> (5) The affidavits will be filed before the Monitoring Committee who may impose such other further conditions as may be appropriate.

36. In the event the Monitoring Committee is satisfied that the premises in question ought to be de-sealed, it may require the concerned statutory authority to de-seal the premises in question. If the Monitoring Committee is not satisfied that the premises in question ought to be de-sealed, the applicants will be at liberty to approach this Court for appropriate orders. We make it clear that in view of Report No. 46 dated 12th November, 2007 this Order will not be applicable to all other commercial activities that have been sealed in the premises in question.

37. 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.

38. We make it clear that this order will inure 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 inure for the benefit of anybody using residential premises for any industrial activity of any sort or nature whatsoever.

39. With regard to the writ petitions that have been transferred to the Delhi High Court which challenge the Act and subsequent legislations, we find from a perusal of the website of the Delhi High Court that these petitions have not yet been heard, for one reason or another. We do not find any fault with the Delhi High Court. The intention of this Court in transferring the writ petitions to the Delhi High Court was for their expeditious disposal preferably within one year. Almost four years have gone by in this exercise but without any decision. Therefore, given the gravity of the situation as revealed from the Reports of the Monitoring Committee, we think it appropriate that this Court ought to hear the writ

petitions on an expeditious basis and, accordingly, withdraw the writ petitions that were transferred to the Delhi High Court to this Court. The Registry will place these writ petitions on receipt from the Delhi High Court for directions on 12th January, 2018.

40. The decisions rendered by this Court, referred to above, indicate that Mr. Ranjit Kumar, Senior Advocate was assisting this Court as A*micus Curiae*. It appears that he was discharged. In our opinion, in view of the changed circumstances, it is again necessary to request Mr. Ranjit Kumar to continue to assist us in the matter. Accordingly we do so.

41. The Monitoring Committee has done yeoman service to the citizens of Delhi and has prepared a very large number of reports. We request the Monitoring Committee to set up a website and place all these reports, duly indexed, on the website so that they are available to the citizens of Delhi.

…….J
(Madan B. Lokur)

……..J
(Deepak Gupta)

New Delhi;
December 15, 2017