

ITEM NO.4

COURT NO.3

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
I.A.NO.1849/2003
IN
I.A.NO.1174
IN
I.A.NO.22 IN
WRIT PETITION(C)NO.4677 OF 1985

M.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for modification clarification of the order dated 16.12.2002, 7.12.1999 onj behalf of Hindustan Vegetable Oil Corpn.Ltd.)

WITH

I.A.NO.1851-1853 IN W.P.(C)NO.4677/1985

(With appln.(s) for clarification of court's order dated 10.5.1996, impleadment, permission to file application for clarification on behalf of Raghunath Builders)

AND

I.A.NOs.1915-1916 in W.P.(C)NO.4677/1985

(With appln.(s)for permission to file additional documents, exemption from filing O.T. and on behalf of Raghunath Builders)

AND

I.A.NO.2262 IN W.P.(C)NO.4677/1985

(With appln.(s) for permission to file additional documents on behalf of Raghunath Builders)

AND

I.A.NOS.2339-2340 IN W.P.(C)NO.4677/1985

(With appln.(s) for permission to file rejoinder affidavit on behalf of Raghunath Builders)

AND

I.A.NO.D21918 IN W.P.(C)NO.4677/1985

(with appln.(s) for directions on behalf of National Textile Corporation)

Date: 29/09/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HON'BLE MR. JUSTICE A.K. PATNAIK

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For Petitioner(s)/
Respondent(s)

Mr. M.C. Mehta, In-Per+son (N.P.)

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

Mr. Vishnu B. Saharya, Adv.
For M/s. Saharya & co.

Mr. Sanjiv Sen, Adv.

Ms. Anil Katiyar, Adv.

Mr. D.S. Mahra, Adv.
Mr. B.S. Banthia, Adv.
Mr. Vishwajit Singh, Adv.
Ms. Sheil Sethi, Adv.
Mr. D.N. Gobardhan, Adv.
Ms. Anu Gupta, Adv.
Mr. Surya Kant, Adv.
Mr. Vijay Panjwani, Adv.
Mr. B.K. Satija, Adv.
Ms. Naresh Bakshi, Adv.
Mr. S.B. Sanyal, Sr. Adv.
Mr. Ranjan Mukherjee, Adv.

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

IA Nos. 1849 and 1851-53 are disposed of in terms
of the signed order.

I.A.No.1915-1916, 2262 and 2339-2340 are disposed
of.

List I.A.NO.D21918 on 12.10.2011.

(O.P. Sharma) (M.S. Negi)
Court Master Court Master
(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A.NO.1849/2003

IN

I.A.NO.1174

IN

I.A.NO.22

IN

WRIT PETITION (C) NO. 4677 OF 1985

M.C. MEHTA

... PETITIONER

VERSUS

UNION OF INDIA & Ors.

... RESPONDENTS

RE: HINDUSTAN VEGETABLE OIL CORPORATION LTD. ... Applicant

AND

I.A.NO.1851-53/2003

IN

I.A.NO.1174

IN

I.A.NO.22
IN
WRIT PETITION (C) NO. 4677 OF 1985

RE: RAGHUNATH BUILDERS LTD.

... Applicant

O R D E R

Hindustan Vegetable Oil Corporation Ltd. (for short 'HVOC') claimed that it was the owner of an extent of about 3.2 acres of land in Delhi earmarked as industrial land. Out of the said extent, about 1.2 (4800 sq.m.) acres was situated to the North of Grand Trunk Road and about 2 acres (8000 sq.m.) was situated to the South of the Grand Trunk Road.

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2. As per order dated 10.5.1996 in M.C.Mehta v. Union of India - 1996 (4)SCC 351, every owner of an industry in Delhi had to surrender 57% of the land held in excess of 2000 sq.m. (where the extent of land held exceed 0.2 hectares). It therefore meant that HVOC had to surrender out of 3.2 acres, an extent of 1.54 acres (that is 57% of area out of 3.2 acres after deducting initial 2000 sq.m.). HVOC made an application stating that 1.2 acres, situated to the Northern side of GT Road should be excluded for calculating the area to be surrendered having regard to the fact that the said 1.2 acres was not being used exclusively as residential quarters for the factory employees. The said application was disposed of on 7.12.1999. This court did not accept the contention that 1.2 acres was not a part of the industry. It however, held that instead of HVOC surrendering 57% in 1.2 acres (that is the Northern portion) and 57% of 2 acres (that is the Southern portion) after deducting 2000 sq.m., for convenience, HVOC may hold the entire 1.2 acres towards the share which it was entitled as per the formula and surrender the entire 2 acres to the Delhi Development

Authority for "community needs".

3. IA No.1790 in IA No.1174 was filed by HVOC for clarification of the order dated 7.12.1999 and for a direction that the HVOC was required to surrender 57% of land only out of the 2 acres. HVOC contended that 1.2 acres of land situated on the Northern side of GT Road

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should be totally excluded as it was being used for residential purposes and that it was liable to surrender 57% only in the 2 acres plot on the southern side of GT Road. This was not accepted by this Court. By order dated 16.12.2002, this court directed as under:

"Application for clarification stand rejected. It is made clear that company to surrender 57% out of 3.20 acres of land. Since by virtue of our earlier order, 1.20 acres situated on the other side of the road stands excluded, the company would now be required to surrender 1.80 acres within 2 acres of land."

4. IA No. 1849 is again filed by HVOC seeking modification of the orders dated 7.12.1999 and 16.12.2002 and for a declaration that it is liable to surrender only 0.86 acres of land as per the criteria contained in the order dated 12.5.1996. According to them, the calculation is as under:

INDUSTRIAL Plot of HVOC 2 Acres

Area to be surrendered (as per Table in the order dated 10.5.1996)

Extent	Land to be surrendered	Retainable land
Upto 2000 sq.m. (0.49 acre)	NIL	0.49 acres
0.2 Ha. to 5 Ha.	57%	43%
Land to be surrendered (out of 2 acres less 2000 sq.m.): 57% of 1.51 acres = 0.86 acres		

Land left with the HVOC: 1.2 acre + 43% of 1.51 acres + 0.49 acres = 2.34 acres

5. Raghunath Builders filed IA No. 1809/2003 contending that the land to the Southern side of GT Road

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measures 2.044 acres; that out of the said block of 2.044

acres, 47495 sq.ft.(4412 sq.m.) adjoined the GT Road belonged to Ganesh Flour Mills of which HVOC was the successor and the remaining 41579 sq.ft. (3863 sq.m.) to the south belonged to Jaipuria family which was leased to Ganesh Flour Mills; that they (Raghunath Builders) had purchased the leased area of 3863 sq.m. from Jaipuria family; and that therefore, HVOC could not treat the entire Southern block of 2 acres as its land, nor could it exclude the 1.2 acres of industrial land for the purpose of calculating the land to be surrendered by it; that HVOC has wrongly tried to surrender the leased land belonging to it (Raghunath Builders) to DDA by showing it as land owned by it suppressing the fact that 3863 sq.m. of land was leased land. Therefore, the said Raghunath Builders sought modification of the orders dated 10.5.1996, 7.12.1999 and 16.12.2002 in regard to the land to be surrendered by HVOC to DDA by excluding 3863 sq.m. of land belonging to them and a direction to HVOC not to hand over/surrender any part of the leased land of 3683 sq.m. HVOC however does not admit the ownership of Raghunath Builders or its predecessor-Jaipurias. According to HVOC, it is the owner of the entire 2 acres of land on the Southern side of GT Road including the area of 3863 sq.m. claimed by Raghunath Builders. Thus the questions whether Raghunath Builders are the owners of 3863 sq.m. and whether HVOC was only a lessee, whether Raghunath Builders

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have any right at all are all disputed questions of fact and this Court cannot decide such disputed questions relating to title between Raghunath Builders and HVOC, in an interlocutory application filed in a disposed of matter. That issue has to be sorted out by Raghunath Builders before appropriate forum.

6. In so far as the application for clarification (IA

No.1849) by HVOC is concerned, the position is as under:

Total extent of land held was: 3.20 acres. As per the order dated 10.5.1996 by this Court, 2000 sq.m.(0.49 acre) will have to be excluded and out of the remaining 2.71 acres, 57% will have to be surrendered which comes to 1.54 acres. The contention of the HVOC that 1.20 acres will have to be excluded as it contained residential quarters and the area to be surrendered will have to be calculated only with reference to 2 acres is untenable and liable to be rejected. The previous orders of this Court are clear and the entire 3.20 acres was earmarked for industrial use. Even if some part of such industrial land was being used for residential quarters for factory employees, for the purpose of calculation of the area to be surrendered, the entire area of 3.20 acres earmarked for industrial purposes, has to be taken into account and not only 2 acres. There is however an error in calculation in the order dated 16.12.2002. This court having said that the total area was 3.2 acres and the extent to be surrendered

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as 57%, committed error in calculating the actual area to be surrendered in accordance with the order dated 10.5.1996.

7. We therefore modify the area to be surrendered out of the 2 acres block on the South-Western side of the GT Road as 1.54 acres. This means that HVOC will be holding about 1.2 acres on the Northern side and about 0.46 acres out of 2 acres on the Southern side. If Raghuanth Builders has any claim against HVOC, it is entitled to get the issue adjudicated by a competent Civil Court. It is made clear that even if it is established by Raghunath Builders that it is entitled to get back any land from HVOC, it should get it back from the area retained by HVOC (that is 1.2 acres on the Northern side and 0.46 acre as the

Southern side of GT Road) and not from the area
surrendered for community need.

IA Nos. 1849 and 1851-53 are disposed of
accordingly.

.....J.
(R.V. RAVEENDRAN)

.....J.
(A.K. PATNAIK)

New Delhi;
September 29, 2011.