

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)

(1) IA NO. 240453/2023 AND 119787/2024 (APPLN. FOR DIRECTION AND PERMISSION TO FILE ADDITIONAL DOCUMENTS ON BEHALF OF GYANENDRA) 2) IA NOS. 182567, 182573/2019 AND 150265/2021 (APPLNS. FOR IMPLEADMENT, DIRECTION AND VACATING INTERIM ORDER DT. 16.12.2019) 3) IA NO. 177315/2024 (APPLN. FOR DIRECTION ON BEHALF OF MANJU SETHI) 4) I.A. NO. 155220/2024 (APPLN. SEEKING PERMISSION FOR REMOVAL OF GOODS) 5) IA NOS. 21344 AND 21346 OF 2019 (APPLNS. FOR IMLEADMENT AND DIRECTIONS ON BEHALF OF PALAM EXTENSION MAIN MARKET WELFARE ASSOCIATION) 6) IA NOS. 5329 AND 5331/2019 (APPLNS. FOR INTERVENTION AND PERMISSION TO APPEAR AND ARGUE IN PERSON) 7) I.A.NOS. 77503 AND 82069/2024 (APPLNS. FOR DIRECTION AND PERMISSION ON BEHALF OF INDIAN OIL CORP. LTD.) 8) I.A. NO. 219797/2024 (APPLN. FOR DIRECTION ON BEHALF OF PRAVEEN KR.) 9) I.A. NO. 225939/2024 (APPLN. FOR SETTING ASIDE ORDER ON BEHALF OF PRAVEEN KR.) 10) IN RE: COMPLIANCE OF ORDER DT. 26.06.2024 AND IN RE: REPORT NO. 189 OF THE MONITORING COMMITTEE AND IN RE: REPORT NO. 190 OF THE MONITORING COMMITTEE 11) I.A. NOS. 230937 AND 230939/2024 (APPLNS. FOR SET ASIDE ORDER AND INTERIM RELIEF) 12) I.A. NOS. 203615 AND 218080/2024 (APPLNS. FOR DIRECTION AND PERMISSION) 13) I.A. NO. 203618/2024 (APPLN. FOR DIRECTION) 14) I.A. NOS. 204094 AND 218090/2024 (APPLNS. FOR DIRECTION AND PERMISSION) IN W.P.(C) NO. 4677/1985 "ONLY" ARE LISTED NAMES OF FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST : MR. S. GURU KRISHNA KUMAR, SR. ADVOCATE (A.C.) MS. ANITHA SHENOY, SR. ADVOCATE (A.C.) MR. A.D.N. RAO, SR. ADVOCATE (A.C.) MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.) PETITIONER-IN-PERSON MR. G.S. MAKKER, MR. AMRISH KUMAR, MR. PRAVEEN SWARUP, MR. NISHIT AGRAWAL, MR. CHIRAG M. SHROFF, MS. POOJA DHAR, MS. SHAGUN MATTA, MR. V.N. RAGHUPATHY, MR. SANDEEP GUPTA, MR. VIVEK NARAYAN SHARMA, MR. JASMEET SINGH, MS. PRIYA PURI, MR. P.C. PATANAIAK, MR. SANJEEV MALHOTRA, MR. SHREY KAPOOR, ADVOCATE APPLICANT-IN-PERSON)

Date : 04-11-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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Mr. Samir Malik, AOR

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

IA No.240453/2023 and 119787/2024

1. Heard the learned counsel appearing for the applicant. We have perused the affidavit filed by the applicant in terms of the order dated 9th September, 2024.

2. One of the main contentions is that the tin-shed which was used for commercial purposes by the applicant is not a building within the meaning of definition of 'building' in the Unified Building Bye Laws for Delhi, 2016.

3. We cannot accept the said contention as any structure and a roof is covered by a definition of 'building'. As the applicant is unable to place on record any permission granted by any authority to construct the tin-shed which was being used for commercial purposes, we are unable to grant any relief to the applicant. The applications are accordingly rejected.

4. In the event, the applicant agrees to remove the tin-shed unconditionally, we permit the applicant to move an application for recall of this order along with the undertaking of the applicant to remove the tin-shed.

IA NOS. 182567/2019, 182573/2019 AND 150265/2021

5. The learned senior counsel appearing for the applicants in IA No.182567/2019 states that the applicants will file an undertaking not to use the garage block as an office. He also undertakes that within a period of one week from today, he will make an application for grant of No Objection Certificate (NOC) from the Delhi Fire Services for using a part of the basement as an office. Undertaking and compliance with the requirement of making an application for NOC shall be filed by the applicants within a period of two weeks from today.

6. To be listed on 2nd December, 2024 at the end of the Board.

IA NO. 177315/2024

7. The learned counsel appearing for the applicant states that Annexure A-7 of the additional documents filed by the applicant is a copy of the sanctioned plan of the premises subject matter of this application.

8. We direct the Municipal Corporation of Delhi (MCD) to verify whether the said document is a copy of the sanctioned plan. If the said document is a copy of the sanctioned plan, the MCD will verify whether the premises subject matter of this application as it exists today is in terms of the said sanctioned plan or whether there are any deviations. If the MCD wants inspection of the premises by entering the same, only for the purposes of taking inspection, the MCD will be entitled to remove the seal. Immediately after inspection, it shall be re-sealed. The MCD to file an affidavit within a period of three weeks from today.

9. To be listed on 2nd December, 2024 at the end of the Cause List.

I.A. NO. 155220/2024

10. We have perused Report No.187 of the Monitoring Committee and the affidavit of the MCD. The MCD has worked out a penalty payable at Rs.25,82,623/- (Rupees twenty five lakhs eighty two thousand six hundred twenty three). The learned counsel appearing for the applicant states that the applicant is willing to pay the said

penalty.

11. In view of the statement, on deposit of a sum of Rs.25,82,623/- (Rupees twenty five lakhs eighty two thousand six hundred twenty three) by the applicant with the MCD, the applicant will be permitted to remove the goods from the premises described in prayer clause (a) of the application within a period of one month from today. Only to enable the applicant to remove the goods, the Monitoring Committee will order temporary de-sealing of the premises. As soon as the goods are removed by the applicant within a period of one month as directed above, the premises shall be re-sealed.

12. The application is accordingly disposed of.

IA NOS. 21344 AND 21346 OF 2019

13. IA No.21346 of 2019 relates to more than 160 different structures. Before granting any relief to the applicants, legality of each and every structure has to be tested by this Court and therefore, the application must come from the owners/occupants of different structures. Each structure has a separate and distinct factual facet. Therefore, we decline to entertain these applications at the instance of the applicant-Association and permit the individuals who are either occupying or owning the structures to make an application for the same relief.

14. We make it clear that along with the applications, documents showing authorization of the concerned structure shall also be filed.

15. With liberty granted as aforesaid, the applications are disposed of.

IA NOS. 5329 AND 5331 of 2019

16. As the applicant appearing in person is not present, list on 2nd December, 2024 at the end of the Cause List.

I.A.NOS. 77503 AND 82069 of 2024

17. We have perused the affidavit dated 17th October, 2024 filed on behalf of the Delhi Development Authority (DDA) and, in particular, paragraph 5 thereof. The learned counsel appearing for the Indian Oil Corporation states that the officers of the applicant would like to inspect the sites mentioned in paragraph 5 of the affidavit. Only after inspection, the applicant will be in a position to respond. To enable the learned counsel appearing for the applicant to respond, list on 2nd December, 2024 at the end of the Cause List.

I.A. NO. 219797/2024

18. The learned counsel appearing for the applicant states that the applicant is not the petitioner in Writ Petition (Civil)No.3856 of 2024 filed before the Delhi High Court and in fact the applicant in IA No.238514 of 2024 is the petitioner.

19. We direct the applicant in IA No.238514 of 2024 to place on record copies of the orders passed by the High Court in the said Writ Petition.

20. The learned Amicus Curiae rightly pointed out that compliance with the order dated 30th September, 2022 passed by this Court will have to be considered, while we deal with these applications. We will have to ensure that a proper compliance with the orders dated 30th September, 2022 and 13th October, 2022 is made.

21. Updated Compliance with the orders dated 30th September, 2022 and 13th October, 2022 shall be filed by all concerned authorities on or before 6th December, 2024.

22. For considering these applications and compliance with the orders dated 30th September, 2022 and 13th October, 2022, list on 9th December, 2024.

IN RE: REPORT NO.189 OF THE MONITORING COMMITTEE DATED 27TH SEPTEMBER, 2024

23. We have perused the affidavit of the MCD dated 15th October, 2024. In view of the said affidavit, continuation of Mr. Nand Kishore Gupta for a long time may not be proper.

24. We, therefore, direct the MCD to provide the names of suitable persons including their credentials to the Monitoring Committee. The Monitoring Committee will suggest the name of a suitable person to replace Shri Nand Kishore Gupta so that appropriate orders can be

passed. The Monitoring Committee will submit a further report on these terms on or before 6th December, 2024. We will consider this report on 9th December, 2024 at the end of the Cause List.

25. In the meanwhile, the appointment of Shri Gupta will continue.

In RE: REPORT NO.190 OF THE MONITORING COMMITTEE DATED 27TH SEPTEMBER, 2024

26. We have perused the affidavits filed by the DDA, the MCD and the New Delhi Municipal Council (NDMC). All the three parties must come out with specific reasons why outstanding amounts are not being recovered from the concerned persons. If there are prohibitory orders, the same shall be placed on record.

27. We direct all the three authorities to file detailed affidavits. We also direct the Land and Development Officer to file an affidavit setting out the efforts made to recover the amount of more than Rs.35,00,00,000/- (Rupees thirty five crores) as set out in Report No.190. All the four authorities shall file proper affidavit by the end of this year which shall be considered on 3rd January, 2025.

28. We make it clear that the proceedings before the Estate Officer referred in the affidavit of the DDA shall go on. We request the Estate Officer to dispose of the proceedings as expeditiously as possible.

I.A. NO. 225939/2024,
I.A. NOS. 230937 AND 230939/2024,
I.A. NOS. 203615 AND 218080/2024,
I.A. NO. 203618/2024 and
I.A. NOS. 204094 AND 218090/2024

29. List these applications on 2nd December, 2024 at the end of the Cause List.

30. For considering the issue of enhancing the green cover of Delhi in terms of the orders dated 26th June, 2024 and 30th September, 2024, list on 9th December, 2024.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER