

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. NOS. 2 2 1 2 - 2 2 1 3 In
W R I T P E T I T I O N (C I V I L) NO(s). 4 6 7 7 OF 1 9 8 5

M.C.M E H T A

Petitioner(s)

V E R S U S

U N I O N O F I N D I A & O R S.

Respondent(s)

(For impleadment & directions on behalf of Ms. Shanno Devi)

With

I.A. NOS. 2 2 1 4 - 2 2 1 5 In W P(C) NO. 4 6 7 7 OF 1 9 8 5
(For impleadment & directions on behalf of Ms. Seema Sethi)

I.A. NOS. 2 2 1 6 - 2 2 1 7 In W P (C) NO. 4 6 7 7 OF 1 9 8 5
(For impleadment & directions on behalf of A.K. Rain a)

AND

I.A. NOS. 2 2 6 0 - 2 2 6 1 in W P(C) No. 4 6 7 7 of 1 9 8 5
(For impleadment and directions)

I.A. Nos. 2 2 6 3 - 2 2 6 4 in W P(C) No. 4 6 7 7 of 1 9 8 5
(For impleadment and directions)

Date: 1 4 / 0 3 / 2 0 0 8 These petitions were called on for hearing today.

C O R A M :

HON' B L E D R. J U S T I C E A R I J I T P A S A Y A T
HON' B L E M R. J U S T I C E C . K . T H A K K E R
HON' B L E M R. J U S T I C E L O K E S H W A R S I N G H P A N T A

Mr. Ranjit Ku m a r , Sr. Adv. (A.C.)
Mr. K a m a l Gupta, Adv. (A.C.)

For Petitioner(s)

Mr. M.C. Mehta,
Petitioner- in-person(N. P .)

For Respondent(s)/ Mr. Amarendr a Shar a n, A.S.G.

U O I Mr. Ashok Bhan, Adv.
Mr. M.P . S . Toma r, Adv.
Mr. D.S. Mahr a, Adv.
Mr. B. K . P r a s a d, Adv.

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For Delhi Police & Govt. of NCT of Delhi Mr. Ashok Bhan, Adv.
Ms. Kir an Bha rdwaj, Adv.
Mr. M.P . S . Toma r, Adv.
Mr. W.A. Qadri, Adv.
Mr. D.S. Mahr a, Adv.

For MCD Mr. Amarendr a Shar a n, A.S.G.
Mr. Sanjiv Sen, Adv.
Mr. P r aveen Swarup, Adv.

Mrs. Anil K atiyar,Adv.

for DDA

Mr. Vinshu B. Sah a rya,Adv.
for M/s. Sah a rya & Co.

Mr. Vijay P a n j a w a n i , Adv.

Ms. Shiel Sethi, Adv.

Mr. D.N. Goburdhan,Adv.

Ms. Pin ky Anand,Adv.

Ms. Geeta Luthr a,Adv.

Mr. Mukul Rohtagi, Sr.Adv.

Mr. Ran a Mukherjee,Adv.

Mr. Sunil Mathews,Adv.

Mr. S. Swa min ath a n,Adv.

Mr. Saur abh Kirpal,Adv.

Ms. Abha R. Shar m a , Adv.

Dr. Rajeev Dhavan, Sr.Adv.

Mr. Ran a Mukherjee,Adv.

Mr. Sunil Mathews,Adv.

Mr. S. Swa min a th a n,Adv.

Mr. T. Anil Ku m a r ,Adv.

Mr. Dhruv Mehta,Adv.

Mr. Ran a Mukherjee,Adv.

Mr. Sunil Mathews,Adv.

Mr. S. Swa min a th a n,Adv.

Mr. R. P . Singh,Adv.

Ms. Sumita Hazarik a ,Adv.

Mr. Ran a Mukherjee,Adv.

Mr. Ashish Dholaki a,Adv.

Mr. Adarsh Priyada r s hi,Adv.

Mr. Surya K ant,Adv.

Mr. P r a s h a n t Ku m a r , Adv.

for M/s. A.P. & J. Chamber s

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

In partial modification of order dated 2 3 . 0 7 . 2 0 0 7 ,

we direct as follows:

Subject to fulfilling the requirement as regards the
height and the F A R , construction of third floor is
permitted on the following terms:

(1) Where under M P D 2 0 2 1 , the permissible number
of dwelling units is 6, it shall be 5 and in case where it is
9, it shall not be more than 7, and in other cases it shall be
more than 1 0, i.e. of the categories 8 to 1 1 indicated in the
comparative statement, as per the Master Pl a n.

(2) The aforesaid clarification is subject to the outcome of the challenge to legality of M P D 2 0 2 1 , which shall be examined on the dates earlier fixed in July, 2 0 0 8 .

(3) The MCD, DDA and the NDMC shall permit the aforesaid construction to be carried out subject to filing of an undertaking that no equity shall be claimed if ultimately it is found that the M P D 2 0 2 1 suffers from infirmity, and demolition of unauthorized and/or impermissible construction is to be made, the same shall be carried out. If any construction is made or is to be made, which, in turn, is sold or transferred to any other person, the stipulation regarding non-claim of equity shall also be applicable. The matter shall be

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processed by the MCD, DDA and the NDMC only after the undertakings to the aforesaid effect by way of an affidavit is filed with the concerned authority.

(4) Order dated 23.07.2007 shall continue to be operative in respect of the categories of the buildings which are covered as "excepted category". Orders shall be operative only in respect of the Residential Plotted Development Areas covered by the Master Plan 2021. I.A. NOS. 2260 - 61

It has been brought to our notice that the Monitoring Committee is insisting on payment of misuser charges, in cases where earlier confirmation to the permitted user was not done. Subject to filing of an undertaking by way of an affidavit, that in case, ultimately it is found that any misuser charges are payable, the same shall be paid, the premises shall be de-sealed by the MCD and NDMC authorities immediately after the undertaking by way of affidavit is filed. The question as to the requirement for paying misuser charges shall be decided when the main cases are taken up.

(Neena Verma)
Court Master

Court Master

(Vijay Aggarwal)