

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A. No.2082 in
WRIT PETITION (CIVIL) NO(s). 4677 OF 1985

M.C.MEHTA Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(for directions on behalf of society for innovative education development (Emp)
business school)

WITH

IA 2085-2086 in WP @ 4677 of 1985
(For direction and intervention on behalf of M/s. Steelco (India)
Pvt. Ltd.)

IA 2088-2089 in WP @ 4677 of 1985
(For directions and intervention on behalf of M/s. Home Decovel)

IA 2091 in WP @ 4677 of 1985
(For intervention and direction on behalf of M/s. Rahul Gas Agency)

IA 2092-2093 in WP @ 4677 of 1985
(For direction and intervention on behalf of EMPI Students Forum)

IA 2094-2095 in WP @ 4677 of 1985
(For directions and intervention on behalf of Faculty and Staff Forum
(EMPI Business School)

IA 2096-2097 in WP (C) 4677 of 1985
(For intervention/direction and exemption from filing OT on behalf
of All India personality enhancement and cultural Centre for scholars
society)

I.A. NO. 2098 IN WP(C) NO. 4677 OF 1985
(For directions and intervention on behalf of Kshipra Overseas Pvt. Ltd.)

IA 2099 & 2100 in WP @ 4677 of 1985
(For directions and permission to file application on behalf of
Dolphin International Ltd.)

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I.A. No. 2125 In WP(C) NO. 4677 OF 1985
(For directions on behalf of Vikash Marg Vyapar Mandal)

I.A. NO. 2140-2141 & 2210 In WP(C) NO. 4677 OF 1985
(For directions and impleadment and intervention)

RITNAND BALVED EDUCATION FOUNDATION....APPLICANT
(Umbrella Organization of Amity Physiotherapy College)

I.A. NO. 2142 In I.A. NO. 22 In WP(C) NO. 4677 OF 1985
(For directions on behalf of M/s Pal Associates)

I.A. NO. 2153 & 2154 In WP(C) NO. 4677 OF 1985
(For impleadment & directions on behalf of IIPM & ANR.)

I.A. NO. 2155 IN WP(C) 4677 OF 1985

(For impleadment and directions on behalf of Shiv Niketan Society)

I.A. No. 2161 In W.P.(C) NO. 4677 OF 1985

(For impleadment/directions on behalf of Delhi Tourism and Transport Development Corp. & Ors.)

I.A. No. 2162 & 2163 In I.A. NO. 22 In WP(C) NO. 4677 OF 1985

(For impleadment and directions on Behalf of ICICI Bank Ltd.)

I.A. NO. 2178 @ WP(C) 482/2007 Vide Ct's order Dt. 27.8.2007 In WP(C) NO. 4677 OF 1985

(For directions on behalf of Banarsi Das Chandiwala Trust Society & Anr.)

I.A. NO. 2179 In I.A. NO. 2178 In WP(C) NO. 4677 OF 1985

(For directions/clarification of ct's order dt. 27.8.2007)

I.A. NO. 2185 In WP(C) No. 4677 OF 1985

(For direction regarding Raj Vidya Kendra Pvt. Ltd.)

I.A. NO. 2187 & 2204 In WP(C) NO. 4677 OF 1985

(For directions and placing on record addl. facts on behalf of Vansh Properties Pct. Ltd.)

I.A. NOs. 2189-2190 IN WP(C) NO. 4677 OF 1985

(appln. for intervention on behalf of Lemen International Pvt. Ltd.)

I.A. NO. 2194 In WP(C) NO. 4677 OF 1985

(For impleadment/direction on behalf of Vidhata Estate)

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I.A. NO. 2199 In WP(C) NO. 4677 OF 1985

(For impleadment and direction on behalf of Indian Carpet)

I.A. NOs. 2206-2207 In WP(C) NO. 4677 OF 1985

(For impleadment & setting aside orders dt. 31.8.2007 on behalf of RWA Friends Colony)

I.A. NOs. 2208-2209 In WP(C) NO. 4677 OF 1985

(For impleadment on behalf of M/s Sunrydge India Heritage Pvt. Ltd.)

I.A. NOs. 2212-2213 In WP(C) NO. 4677 OF 1985

(For impleadment/directions on behalf of Ms. Shano Devi Bhatia)

I.A. NOs. 2214-2215 IN WP(C) NO. 4677 OF 1985

(For directions on behalf of Ms. Seema Sethi)

I.A. NOs. 2216-2217 In WP(C) NO. 4677 OF 1985

(For impleadment/direction on behalf of A.K. Raina)

I.A. NOs. 2221-2221A In WP(C) NO. 4677 OF 1985

(For impleadment/direction on behalf of Trans Yamuna Traders Association)

I.A. NO. 2226 In WP(C) NO. 4677 OF 1985

(For intervention/directions on behalf of Trans Asian Industries Exposition (P) Ltd. & Anr.)

I.A. NOs. 2227-2228 & 2229 In WP(C) NO. 4677 OF 1985

(for impleadment/direction & modification of Court's order dated 11.12.2007 on behalf of Kanchi & Mal Sons)

I.A. No. 2230 In WP(C) NO. 4677 OF 1985

(For impleadment/directions on behalf of Friends of Rajouri Garden Environment (Regd.)

I.A. NO. 2231 In WP(C) NO. 4677 OF 1985
(For impleadment/direction on behalf of Ahuja colour Photo Shop)
I.A. NOs. 2235-2236 In WP(C) NO. 4677 OF 1985
(For intervention and directions on behalf of Mohammed Sultan Salahuddin Qureishi)

I.A. No. 2237 in W.P.(C) No. 4677/1985
(For removing the seal)

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Date: 18/02/2008 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE ARIJIT PASAYAT
HON'BLE MR. JUSTICE C.K. THAKKER
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

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

For Petitioner(s)/ In Person
Applicant
In WP 464 In Person

Mr. Arun Jaitley, Sr. Adv.
Mr. Mukul Rohtagi, Sr. Adv.
Mr. R.N.Karanjawala, Adv.
Ms. Manik Karanjawala, Adv.
Ms. Ruby Singh Ahuja, Adv.
Mr. Manu Agarwal, Adv.

Mr. Jasbir Singh Malik, Adv.
Ms. Shilpi, Adv.
Ms. Rifat Ara, Adv.
Mr. R.K.Tripathi, Adv.

Mr. R.P.Bhatt, Sr. Adv.
Ms. Anita Pandey, Adv.
Mr. Dinesh Kr. Tiwari, Adv.

Mr. Vishnu Sharma, Adv.

Mr. Mukul Rohtagi, Sr. Adv.
Mr. Saurabh Kirpal, Adv.
Mr. Sunil Mathew, Adv.
Mr. S.Swaminathan, Adv.

Mr. Rakesh Kumar Khanna, Sr. Adv.
Dr. Rashmi Khanna, Adv.
Mr. Faizy Ahmad Sayed, adv.

Mr. Ravi Shankar Prasad, Sr. Adv.
Mr. Sanjiv Sen, Adv.
Mr. Praveen Swarup, Adv.

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Dr. Rajeev Dhawan, Sr. Adv.
Mr. Sunil Mathew, Adv.
Mr. S.Swaminathan, Adv.
Mr. Rana Mukherjee, Adv.

Mr. Mukul Rohtagi, Sr. Adv.
Mr. Pravin Bahadur, Adv.
Ms. Meghalee Barthakur, Adv.
Mr. Rajan Narain, Adv.

Dr. Rajeev Dhawan, Sr. Adv.
Mr. Navin Chawla, Adv.
Mr. Sharath Sampath, Adv.

Mr. R.P. Bakshi, Sr. Adv.
Mr. D.K. Singh, Adv.
Ms. Anita Pandey, Adv.
Mr. Pradeep Shukla, Adv.
Mr. Sanjay Kumar, Adv.

Mr. Dhruv Mehta, Adv.
Mr. Raina Mukherjee, Adv.
Mr. Sunil Mathew, Adv.
Mr. S. Swaminathan, Adv.

Mr. ADN. Rao, Adv.
Ms. Rita Ku. Gupta, Adv.
Mr. Deepak Prakash, Adv.
Mr. Naigal Kumar, Adv.
Mr. M.P. Vinod, Adv.

Mr. Ashok Bhan, Adv.
Ms. Kiran Bhardwaj, Adv.
Mr. M.P.S. Tomar, Adv.
Mr. D.S. Mahra, Adv.

Mr. B.S. Jain, Adv.
Mr. Ajay Veer Singh, Adv.
Ms. Mamta Jain, Adv.
Mr. Manish Raghav, Adv.
Mr. Anand Mishra, Adv.

Mr. Sanjeev Sen, Adv.
Mr. Praveen Swarup, Adv.

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Mr. D.N. Goburdhan, Adv.
Ms. Pinky Anand, Adv.
Ms. Geeta Luthra, Adv.

Mr. Subodh Markandeya, Sr. Adv.
Ms. Chitra Markandeya, Adv.
Mr. Ritam Agrawal, Adv.

Mr. R.M. Sinha, Adv.
Mr. Arun K Sinha, Adv.
Mr. Rakesh Singh, Adv.
Mr. Mukesh Kumar Sinha, Adv.
Ms. Namita Sinha, Adv.

Mr. D.K. Singh, Adv.
Ms. Anita Pandey, Adv.
Mr. Pradeep Shukla, Adv.
Mr. Sanjay Kumar, Adv.

Mr. V.B. Saharya, Adv. forming
M/s. Saharya & CO., Adv.
Mr. Pradeep Dhingra, Adv.

Mr. Sachin Sood, Adv.
Mr. V.B.Joshi, adv.
Mr. Kailash Pandey, adv.

Mr. T.L.Vishwanatha Iyer, Sr. Adv.
Mr. Rajesh Anand, Adv.
Mr. Ved Prakash, Adv.
Mr. Abhay Kumar, Adv.

Mr. Anil Airi, Adv.
Mr. Devendra Singh, Adv.

Mr. Arun Kr. Beriwal, Adv.
Mr. Ekram Ali Ansari, Adv.

Mr. Riku Sarma, Adv. for
M/s. Corporate Law Group, Adv.

Mr. KH.Nobin Singh, Adv.
Mr. Tarun, Adv.
Mr. David Rao, Adv.

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Ms. Hemantika Wahi, Adv.
Mr. Saurabh Kirpal, Adv.

For Respondent(s)

UOI Mr. G.E. Vahanvati, S.G.
Mr. A Sharan, ASG
Mr. Devdatt Kamat, Adv.
Mr. Tufail A Khan, Adv.
Mr. B.K. Prasad, Adv.

Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Adv.
Mr. Yashraj Singh, Adv.
Mr. Gulshan Sharma, Adv.

Mr. Vijay Panjawani, Adv.
Mr. Najmi Waziri, Adv.

Ms. Shiel Sheti, Adv.

UPON hearing counsel the Court made the following
ORDER

With reference to the 49th report of the Monitoring
Committee, Mr. Ranjit Kumar, learned Amicus Curiae stated
that there is a contradiction in the stand taken by the MCD. It
is pointed out that the then Commissioner by his office order
dated 03.02.2004 had indicated the parameters applicable so far
as Lal Dora is concerned. He has also referred to the decision of
this Court in M.C.Mehta Vs. Union of India & Ors. 2004 (6)
SCC 588, more particularly para 64 thereof. It is also pointed
out that the Chief Town

Planner in his note had indicated on 08.10.2007 that while defining the land used it is clearly stated that 'land used in village Abadi Lal Dora located in any zone is residential". Let an affidavit be filed by MCD indicating its clear stand taking note of what has been stated by the then Commissioner on 03.02.2004 and the view expressed before this Court in the decision referred to above in para 64. The affidavit shall be filed within three weeks. The DDA shall also indicate its view in this regard by filing an affidavit.

I.A. Nos. 2082, 2092-2093, 2094-2095:

Call after eight weeks.

I.A. Nos. 2085-2086, 2088-2089:

Call after eight weeks.

I.A. No. 2091:

In view of earlier order dated 27.8.2007, no further orders are necessary.

I.A. is disposed of accordingly.

I.A.Nos. 2096-2097:

Call after eight weeks.

I.A. Nos. 2098, 2099-2100:

The premises in question shall be de-sealed only for the purpose of removing the unauthorised construction within a period of six weeks. The applicants are directed to file an affidavit indicating that they have removed the unauthorised construction after same is done. Put up after eight weeks. After the demolition is done, it is open to the applicant to

indicate the factum of removal of unauthorised construction to the DDA who shall verify the correctness of the stand and file affidavit before this Court.

I.A. No.2125:

Call this I.A. after the report of MCD and the re-survey report is submitted before this Court.

I.A. Nos. 2140-2141 , 2210:

Mr. Mukul Rohtagi, learned senior counsel for the applicant states that the permission that is being sought for by the applicant is to operate in the premises allotted to the applicant at Mayur Vihar. It is stated that presently a school is functioning there, but the

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teaching activities shall be done in another part of the premises allotted by the DDA to the applicant. If a representation is made indicating these particulars, the Commissioner Land (Disposal) shall pass appropriate orders. Since the applicant states that it wants to leave the premises presently occupied by it to shift to its own premises, according to it no further action is necessary in respect of the premises which are being presently occupied by it. This aspect shall be examined by DDA/MCD. Let the Commissioner Land (Disposal) pass an order on the representation to be filed within two weeks of its actual filing.

I.A. No. 2142:

In view of earlier order, no further orders are necessary.

I.A. is disposed of accordingly.

I.A.No. 2153-2154:

Put up along with I.A. No. 2082.

I.A. No. 2155:

In view of earlier order, I.A. is disposed of.

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I.A. No. 2161, 2189-90:

A copy of the affidavit filed by ASI be supplied to learned counsel for the applicant within two weeks.

Put up thereafter.

I.A. Nos. 2162-63, 2206-07:

Call after four weeks.

I.A. No. 2178-79:

A copy of the report (Report No. 48) along with relevant annexures of the Monitoring Committee so far as it relates to I.A. Nos. 2144-45, 2178-79 be supplied to the applicant.

Response if any, be filed within four weeks.

Put up thereafter.

I.A. No. 2185:

Reply of the Government of NCT shall be filed within ten days.

Call after three weeks.

I.A. Nos. 2187, 2204:

A copy of the 48th report of the Monitoring Committee along with relevant annexures be supplied to

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learned counsel for the applicant, so far as it relates to the concerned IAs.

If the applicant wants to file any further affidavit, let it be done within four weeks.

Call after four weeks.

I.A. No. 2194:

A copy of the 48th report along with relevant annexures be supplied to the applicant, so far as it relates to concerned I.A. Further affidavit, if any, be filed by the applicant within four weeks.

Call after four weeks.

I.A. No. 2199:

Two weeks' time is granted to the Monitoring Committee to file further report.

I.A. No. 2208-09:

Affidavit of the ASI be taken on record.
Call after four weeks.

I.A. No.2212-13, 2214-15, 2216-17:

Call after three weeks.
There shall be no demolition in the meantime.
Reply, if any be filed within three weeks.

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I.A. Nos. 2221-2221A:
Issue notice to MCD and DDA.

I.A. No. 2226:

A copy of the Report No. 48 (Para 68) along with relevant annexures be supplied to learned counsel for the applicant. So far as I.A. is concerned, further affidavit, if any, be filed within three weeks.

Call after three weeks.

I.A.Nos. 2227-29:

Call after six weeks.

In the meantime, the Appellate Authority under the Public Premises (Eviction of Unauthorised Occupants) Act shall dispose of the appeals, if pending, within four weeks.

A copy of the report No. 47 so far as it relates to the applicant be supplied to the applicant along with relevant annexures.

I.A. No. 2230:

Issue notice to the DDA, MCD and Learned Amicus

Curiae.

Response, if any, be filed within four weeks.

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I.A. Nos. 2231-32:

Issue notice to the DDA, MCD.
Response, if any, be filed within four weeks.
Call after four weeks.

I.A. Nos. 2235-36:

Issue notice.

I.A. No. 2237:

The order passed in I.A. No. 2233-2234 shall operate so far as petitioner Nos. 1 and 2 are concerned. I.As. are disposed of accordingly.

I.A. No. D13380, D13382/08:

If an undertaking by way of affidavit is given that the non-conforming user shall be changed to conforming user, and it is so done the MCD on verification of the correctness of the stand shall de-seal the premises.

Rest of the I.As. shall be listed on 10.03.2008.

[Shashi Sareen]
Court Master

[Vijay Aggarwal]
Court Master