

ITEM NO. 17+16+19

COURT NO.3

SECTION XIV

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 17623/2021

(Arising out of impugned final judgment and order dated 11-01-2016 in WPC No. 7442/2015 passed by the High Court Of Delhi At New Delhi)

GOVERNMENT OF NCT OF DELHI &amp; ANR.

Petitioner(s)

VERSUS

M/S BSK REALTORS LLP &amp; ANR.

Respondent(s)

(IA No. 108529/2021 - CONDONATION OF DELAY IN FILING, IA No. 108530/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

WITH

Diary No(s). 22391/2021 (XIV)

(IA No.58231/2022-CONDONATION OF DELAY IN FILING and IA No.58232/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 4937/2022 (XIV)

(FOR ADMISSION and I.R. and IA No.46293/2022-CONDONATION OF DELAY IN FILING)

Diary No(s). 10090/2022 (XIV)

(IA No.52371/2022-CONDONATION OF DELAY IN FILING)

Diary No(s). 28971/2021 (XIV)

IA No. 156424/2021 - CONDONATION OF DELAY IN FILING, IA No. 156425/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT IA No. 156426/2021 - EXEMPTION FROM FILING O.T.)

Diary No(s). 22388/2021 (XIV)

([TO BE TAKEN UP ALONG WITH Diary No. 17623/2021] IA No. 32519/2022 - CONDONATION OF DELAY IN FILING)

Diary No(s). 6981/2021

(IA No. 42155/2021 - CONDONATION OF DELAY IN FILING)

Diary No(s). 24447/2021

(IA No. 141936/2021 - CONDONATION OF DELAY IN FILING, IA No. 141937/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT IA No. 141940/2021 - EXEMPTION FROM FILING O.T.)

Date : 21-07-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Parties:

Mr. Atul Kumar, AOR  
Ms. Sweety Singh, Adv.  
Mr. Rajiv Ranjan, Adv.  
Ms. Archana Kumari, Adv.  
Mr. Amitabh Ranjan, Adv.

Ms. Sujeeta Srivastava, AOR  
Mr. Sachit Setia, Adv.

Mr. Aman Mohit Hingorani, AOR  
Mr. Sarvesh Chowdhry, Adv.  
Mr. Himanshu Yadav, Adv.  
Ms. Heena Sharma, Adv.

Mr. Nitin Mishra, AOR

Mr. Sanjay Poddar, Adv.  
Mr. Ashwani Kumar, AOR  
Mr. Akshay Dhatwalia, Adv.  
Mr. Kumud Nijawan, Adv.  
Mr. Govind Kumar, Adv.  
Mr. Pratish Goel, Adv.

Mr. Siddharth Batra, AOR  
Mr. S.K. Rout, Adv.  
Ms. Archana Yadav, Adv.  
Ms. Shivani Chawla, Adv.  
Mr. Chinmay Dubey, Adv.  
Mr. Onkar Prasad, Adv.

Mr. Mukul Rohtagi, Sr. Adv.  
Mr. Pankaj Bhagat, AOR

Mr. Ritin Rai, Sr. Adv.  
Mr. Abhijit, Adv.  
Ms. Manikya Khanna, Adv.  
Mr. Aditya Krishna, Adv.  
Mr. Arpit Kumar Singh, Adv.  
M/S. Vedy Partners Aor, AOR

Mr. Abhimanyu Bhandari, Adv.  
Ms. Rooh-e-hina Dua, AOR  
Mr. N.S. Vasisht, Adv.  
Mr. Arav Pandit, Adv.  
Mr. M.P. Bhargava, Adv.

Mr. Ashwani Kumar, AOR

Mr. Dharam Raj Ohlan, Adv.  
Mr. Vishwa Pal Singh, AOR

Mr. Sanjay Poddar, Sr. Adv.  
Ms. Malvika Kapila, AOR  
Mr. Tanwangi Shukla, Adv.  
Mr. Govind Kumar, Adv.

Ms. Aishwarya Bhati, Ld. AAG  
Ms. Sujeeta Srivastava, AOR  
Mr. Sachit Setia, Adv.  
Ms. Purnima, Adv.

Ms. Binu Tamta, AOR  
Mr. Dhruv Tamta, Adv.

Mr. Sanjay Jain, Ld. ASG  
Mr. B K Satija, Ld Adv.  
Mr. Padmesh Mishra, Adv.  
Ms. Akanksha Kaul, Adv.  
Mr. Arvind Kumar Sharma, AOR

Ms. Smita Maan, AOR  
Mr. Vishal Maan, Adv.

Mr. Nitin Mishra, AOR

Mr. Aaditya vijay Kumar, Adv.  
Mr. chitranshul Sinha, AOR  
Ms. Shreya Shree Singh, Adv.

Ms. Astha Tyagi, AOR  
Mr. Dinesh Chander Trihan, Adv.  
Ms. Neha Tripathi, Adv.

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

We have heard learned counsel for the parties.

Mr. Chandra Bhushan Prasad, learned counsel appearing in  
Diary No(s). 24447/2021 submits that he would be appearing for  
the heirs and legal representatives of respondent No.1.

Mr. Atul Kumar, learned counsel appearing for the  
petitioners in Diary No(s). 22391/2021 to take steps to bring  
on record the heirs and legal representatives of deceased

respondent.

Preliminary issue regarding maintainability of special leave petition(s) filed by the State Government or Delhi Development Authority (for short, "Authority"), as the case may be, is raised in light of decision of Co-ordinate Bench rejecting or allowing the concerned proceedings against the same judgment impugned in the respective special leave petition(s) or civil appeal(s).

According to the land-losers, rejection of challenge to the declaration of lapsing at the instance of Authority or State, would dis-entitle the other (i.e., Authority or State) to maintain successive petition against the same judgment; and especially where in the earlier round leave to appeal was granted by this Court and the appeal had been disposed of after hearing all concerned. In other words, the doctrine of merger is being invoked to buttress this preliminary objection.

On the other hand, Ms. Aishwarya Bhati, learned Additional Solicitor General is relying on the observations/dictum of the Constitution Bench of this Court in *Indore Development Authority vs. Manoharlal & Ors.* reported in (2020) 8 SCC 129 to contend that the effect of the declaration or conclusion recorded therein is to efface all the orders passed in the concerned special leave petition or civil appeal

following the decision in *Pune Municipal Corporation & Anr. Harakchand Misirmal Solanki & Ors. reported in 2014 (3) SCC 183* – which has been expressly overruled and as noted in paragraph 365 of the reported decision. (Indore Development Authority).

It is urged that the effect of such overruling is to efface all the orders, including passed by this Court relying on *Pune Municipal Corporation (Supra)*.

It is further urged that such overruling had rendered those decisions nullity and cannot be given effect to in particular the direction to restore possession of the acquired land to the original landowners.

We need not dilate on other contentions raised before us.

Suffice it to observe that these matters require deeper examination, for which the same need to be placed before the three Judge Bench for hearing on 17.08.2022.

It will be open to the parties to get other connected matters involving aforesaid issue by pointing out this order to the Registry, which request may be considered by the Registrar (Judl.) for tagging of those cases along with these matters.

In the meantime, the parties are at liberty to file affidavits/additional documents

(DEEPAK SINGH)  
COURT MASTER (SH)

(VIDYA NEGI)  
ASSISTANT REGISTRAR

