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2024 SCC OnLine SC 5556

In the Supreme Court of India

(Before Dr D.Y. Chandrachud, C.J. and J.B. Pardiwala and Manoj Misra, JJ.)

Writ Petition (Civil) No. 202/1995

In Re : T.N. Godavarman Thirumulpad ... Petitioner (s);

Versus

Union of India and Others ... Respondent(s).

With

Contempt Petition (C) Diary No. 21171/2024 in W.P.(C) No. 4677/1985

(With IA No. 117930/2024-Appropriate Orders/Directions, IA No. 111340/2024-Ex-Parte Ad-Interim Relief, IA No. 135723/2024-Intervention/Impleadment and IA No. 124040/2024-Intervention/Impleadment)

Contempt Petition (C) Diary No. 21740/2024 in W.P.(C) No. 4677/1985

(With IA No. 143277/2024-Appropriate Orders/Directions, IA No. 113516/2024-Ex-Parte, and IA No. 143276/2024-Intervention/Impleadment)

S.M.C.(Crl) No. 2/2024

(With IA No. 185946/2024-Permission to file Application for Direction)

Writ Petition (Civil) No. 202/1995, Contempt Petition (C) Diary No. 21171/2024, W.P.(C) No. 4677/1985, IA No. 117930/2024, IA No. 111340/2024, IA No. 135723/2024, IA No. 124040/2024, W.P.(C) No. 4677/1985, IA No. 143277/2024, IA No. 113516/2024, IA No. 143276/2024, S.M.C.(Crl) No. 2/2024 and IA No. 185946/2024

Decided on October 16, 2024

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WPC 202/1995 M/s. Plr Chambers & Co.

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ORDER

Contempt Petition (C) Diary No 21174 of 2024 in Writ Petition (C) No 4677 of 1985

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1. On 9-5-1996[1], while dealing with IA Nos 18-22 in Writ Petition (C) No 4677 of 1985, this Court had specifically referred to the Master Plan for Delhi Perspective 2001, which stipulated that "no further infringements of the Ridge is to be permitted; it should be maintained in its pristine glory.

2. On 8-2-2023[2], another two-Judge Bench of this Court consisting of Hon'ble Mr. Justice B R Gavai and Hon'ble Mr. Justice Vikram Nath passed an order in Writ Petition (C) No 202 of 1995, specifically mandated that "until further orders, the DDA shall not allot any land in the areas which are under consideration for being notified as a protected area". These directions were issued in relation to a proposal for the diversion of 6,200 square meters of 'morphological Ridge area' for the construction of certain premises for the Directorate of Revenue Intelligence headquarters.

3. IA No 40494 of 2024 was moved by the Delhi Development Authority in Writ Petition (C) No 4677 of 1985 seeking to fell/translocate 1,051 trees. When the interlocutory application came up for hearing before a two-Judge Bench, consisting of Hon'ble Mr. Justice Abhay S Oka and Hon'ble Mr. Justice Ujjal Bhuyan on 4-3-2024[3], the Court observed that "the application is very vague" and that it is the duty of the DDA to first make an attempt to protect the environment by seeking only the felling of those trees which was absolutely mandatory. Moreover, DDA was directed to apply its mind as to whether there were other alternatives which could be examined to save the trees having due regard to the fact that the felling of trees was proposed from the southern Ridge. The Court noted that DDA proposed to construct a road in a forest for which no permission had been obtained under the Forest Act. Accordingly, the following directions were issued:

> "We direct the DDA to re-examine the proposal by employing the experts in the field. The exercise to be undertaken for by the DDA is necessary ensuring that while public work is carried out, minimum number of trees are required to be felled. The said approach is not reflected from the application made by the DDA. After the DDA re-examines the proposal with the help of eminent experts in the field, we permit the DDA to file a fresh application for the same relief hopefully containing a prayer for felling of much less number of trees."

The application filed by DDA was dismissed though in terms of the liberty which was granted to it.

4. A report was submitted on 22 April 2024 by the Central Empowered Committee [Report No 4 of 2024 in Writ Petition (C) No 202 of 1995] indicating that a site visit was conducted on 10 and 18 April 2024 by the CEC in the presence of officials of the Forest

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Department of Delhi and DDA. The report stated that despite the dismissal of DDA's interlocutory application seeking permission for felling of trees on 4 March 2024, work had already been started by DDA in the said area and land breaking had been carried out for the construction of a new road. The CEC noted that according to the report filed by the Deputy Range Officer, 222 trees had already been felled in the non-forest area where permission under the Delhi Protection of Trees Act, 1994 was required for felling and 523 trees were found to have been felled in the Ridge area where the approval of the Central Government under the Forest (Conservation) Act, 1980 and the leave of this Court was required before felling of trees.

5. The CEC, while noting a violation of the orders passed on 8 February 2023 in *T.N. Godavarman*[2] and on 4 March 2024 in *M.C. Mehta*[3], proposed the initiation of action against the concerned officers of DDA for non-forestry use of 3.6 hectares of forest land for construction of an approach road from the main Chhatarpur road to SAARC University, CAPFIMS and other establishments at Maidangarhi at Satbari under the South Forest Division in South District of NCT of Delhi without the approval of Central Government. The CEC also proposed action under the penal provisions of the Delhi Preservation of Trees Act, 1994 against the concerned officials of DDA for felling trees without the approval of the Tree Officer.

6. On 24-4-2024[4], notice of contempt was issued by this Court by a Bench consisting of Hon'ble Mr. Justice B R Gavai and Hon'ble Mr. Justice Sandeep Mehta. The Court, *prima facie*, noted that the action of DDA in felling trees and constructing the road was in contempt of the orders passed on 8-2-2023[2] and 4-3-2024[3].

7. On 9-5-2024[5], another two-Judge Bench consisting of Hon'ble Mr. Justice Abhay S Oka and Hon'ble Mr. Justice Ujjal Bhuyan, issued notice of contempt in Contempt Petition (Civil) Diary No 21171 of 2024 and restrained further tree felling. The Court ordered the maintenance of *status quo*.

8. On 14-5-2024[6], the Vice-Chairman of DDA was directed to file a personal affidavit on the restoration measures intended to be taken and to indicate the approximate number of trees felled and the names of the officers of DDA who authorized the felling of trees.

9. On 16-5-2024[7], the two-Judge Bench recorded, after perusing the affidavit filed by the Vice-Chairman of DDA, that the conduct of DDA in felling over 1,100 trees without the permission of the Court was a matter which shocked the conscience of the Court. The Court took note of the fact that the application to fell “a large number of trees” was filed on 15 February 2024 by DDA and the actual felling of trees commenced

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on 16 February 2024. The felling of trees continued until 26 February 2024. The fact that the felling of trees had commenced even before the filing of the application was suppressed from this Court though DDA was fully aware of the fact that without the permission of the Court no tree could be felled. The Court observed that in pursuance of its directions dated 4-3-2024[3], for the constitution of a committee of eminent experts, a proposal was approved on 12 April 2024 by the Chairperson of DDA. The Court noted that the Chairperson of DDA - the Lieutenant Governor of Delhi - appears to have been misled while taking his approval on the proposal based on the observations of this Court. The Court while issuing notice of criminal contempt to the Vice-Chairman of DDA, called for a time bound scheme for carrying out the work of restoration, noting that DDA had indicated on affidavit of the Vice-Chairman that 1100 trees have been felled. Thereafter, a series of orders came to be passed on 24-6-2024[8], 26-6-2024[9] and 12-7-2024[10].

10. From the material on the record, it has transpired that on 3 February 2024, the Chairperson of DDA had visited the site and had, *inter alia*, directed expediting the project of road widening. At this stage, the material on the record is ambiguous on certain critical aspects on which a further elaboration would be required. These aspects are set out below:

(i) Whether during the course of the site visit on 3 February 2024, there was any discussion with or intimation furnished to the Chairperson of DDA on the permission required to be obtained from this Court for the felling or removal of trees;

(ii) In the event that the answer to (i) above being in the positive, what steps, if any, were taken to ensure that the permission of this Court would be obtained before the actual work of felling trees took place;

(iii) In the event that the answer to (i) above being in the negative, when was the Chairperson of DDA first made aware of the fact that (a) permission for the felling of trees from this Court was required; and (b) the actual act of felling of trees had commenced on or about 16 February 2024, before an application was moved before this Court and which was eventually dismissed by the order dated 4-3-2024[3];

(iv) What, if any, steps have been taken for remediation and restoration of the ecological damage which has been caused by the felling of trees despite the admitted absence of permission from this Court as required by the orders referred to earlier; and

(v) What steps have been taken to identify the officers responsible for -

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(a) The willful act of suppression from this Court in the application filed for permission to fell trees, of the fact that the felling of trees had already taken place even before the application was filed when the order was passed on 4-3-2024[3] rejecting the application for permission;

(b) Whether any disciplinary proceedings have been instituted against the officials responsible;

(c) Initiating criminal action against all officials responsible for the breach of the binding directions of this Court. In the event that the Chairperson is of the view that disciplinary action and the initiation of criminal prosecution should be taken up, we would expect that such action should be taken in the interregnum without awaiting for further directions of this Court; and

(d) Whether the timber of the felled trees was inventorised and the manner in which it has been dealt with. The Chairperson of DDA shall take steps before the next date of listing to fix accountability in respect of any act of omission or commission on the part of officials or third parties involved.

11. A compliance affidavit on all the above aspects shall be filed before this Court by the next date of listing. The affidavit which has been directed to be filed shall be personally filed by the Chairperson of DDA making a full disclosure on the basis of the material on record and of the facts which are personal to the knowledge of the Chairperson bearing in mind what transpired at the site visit on 3 February 2024.

12. The final report of the Expert Committee which was constituted in pursuance of the order dated 26-6-2024[9], shall be submitted to this Court by the next date of listing.

13. List the matters on 22 October 2024.

Contempt Petition (C) Diary No 21740 of 2024 in Writ Petition (C) No 4677 of 1985

1. De-tagged and be listed on 22 October 2024.

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[1] *M.C. Mehta* v. *Union of India*, WP (C) No. 4677 of 1985, order dated 9-5-1996(SC)

[2] *T.N. Godavarman Thirumulpad, In re* v. *Union of India*, 2023 SCC OnLine SC 1951

[3] *N Block Market Traders Assn. Greater Kailash-1* v. *Gyanesh Bharti*, 2024 SCC OnLine SC 753

[4] *T.N. Godavarman Thirumulpad, In re* v. *Union of India*, IA No. 98622 of 2024 in WP (C) No. 202 of 1995, order dated 24-4-2024(SC)

[5] *Bindu Kapurea* v. *Subhasish Panda*, Cont. Pet. (Civil) Diary No. 21171 of 2024 in WP(C) No.

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4677 of 1985, order dated 9-5-2024(SC)

[6] *Bindu Kapurea* v. *Subhasish Panda*, Cont. Pet. (Civil) Diary No. 21171 of 2024 in WP(C) No. 4677 of 1985, order dated 14-5-2024(SC)

[7] *Bindu Kapurea* v. *Subhasish Panda*, Cont. Pet. (Civil) Diary No. 21171 of 2024 in WP(C) No. 4677 of 1985, order dated 16-5-2024(SC)

[8] *Bindu Kapurea* v. *Subhasish Panda*, Cont. Pet. (Civil) Diary No. 21171 of 2024 in WP(C) No. 4677 of 1985, order dated 24-6-2024(SC)

[9] *Bindu Kapurea* v. *Subhasish Panda*, Cont. Pet. (Civil) Diary No. 21171 of 2024 in WP(C) No. 4677 of 1985, order dated 26-6-2024(SC)

[10] *Bindu Kapurea* v. *Subhasish Panda*, Cont. Pet. (Civil) Diary No. 21171 of 2024 in WP(C) No. 4677 of 1985, order dated 12-7-2024(SC)

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