

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

.....

EXECUTION APPLICATION No. 16 of 2016

IN

Original Application No. 270 of 2013

IN THE MATTER OF:

1. K.C Bhargava

S/o Lt. Pandit Jai Bhagwan Bhargava
R/o 09, Birla Mandir/Budh Mandir
Ridge lane, Mandir Marg,
New Delhi-110 001.

2. Nand Kishore

S/o Nand Lal Prajapati
Nand Flower Shop
Birlan Mandir, Mandir Marg,
New Delhi-110001.

3. Shyam Singh

S/o Khalifa Phelwan
R/o Nathu Ki Baggichi
Panchkuya Road
New Delhi-110 001.

.....Applicants

V e r s u s

1. Union of India

Through Secretary
Ministry of Environment & Forests
Indira Prayavaran Bhawan,
Jorbagh Road,
New Delhi.

2. Ministry of Urban Development

Through Head of Department
Land & Development Officer

A Wing, 6th Floor,
Nirman Bhawan
New Delhi-110 001.

3. Govt. of NCT of Delhi

Through the Chief Conservator of Forests
Department of Forests & Wildlife
2nd Floor, A Block, Vikas Bhawan,
ITO, New Delhi-110002

4. NDMC

Through Chairman
NDMC BHAWAN
New Delhi

5. Commissioner of Police

Delhi Police Headquarters
ITO, New Delhi-110001.

6. Sanatan Dharma Sabha Laxmi Narayan Temple

Trust (Regd.)
Through S.K. Birla
Mandir Marg,
New Delhi-110001.

.....Respondents

COUNSEL FOR APPLICANTS:

Mr. Prafulla Kumar Behera, Advocate and Ms. Chitrangada Parmar, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Anil Panwar, Sr. Advocate, Respondent No. 2
Mr. Tarunvir Singh and Ms. Guneet Khehar, Advocate, Respondents No.3 & 5
Mr. Vikash Kumar, Advocate proxy for Mr. Sanjeep Kr. Jha, Respondent No. 6
Mr. A.K. Prasad, Advocate, Mr. Shashank Saxena and Ms. Sunakashi Gupta, Advocates for MOUD
Ms. Sakshi Popli, Advocate for NDMC

JUDGMENT**PRESENT:****Hon'ble Dr. Justice Jawad Rahim (Judicial Member)****Hon'ble Mr. Ranjan Chatterjee (Expert Member)**

Reserved on: 26th July 2017**Pronounced on: 12th September 2017**

- 1. Whether the judgment is allowed to be published on the net?**
- 2. Whether the judgment is allowed to be published in the NGT Reporter?**

Mr. Ranjan Chatterjee, (Expert Member)

1. This is an execution petition in pursuance to directions of the Hon'ble Tribunal dated 18.04.2016 to highlight the continuous and deliberate disregard, wilful disobedience and wilful breach of the directions issued by the Hon'ble Supreme court vide order dated 24.04.1996 in Writ Petition(Civil) No. 4677/85 titled M.C. Mehta Vs. Union of India and Ors. and this Hon'ble Tribunal vide order dated 03.03.2015 in Original application No. 270/2013 whereby, the Tribunal was pleased to dispose of the matter by directing Respondent No.2, i.e., Land and Development Officer (L&DO) in the Ministry of Urban Development and the Respondent No.3, i.e., the Chief Conservator of Forests in the Govt. of NCT, Delhi, to remove and demolish any illegal and unauthorised construction made by Respondent No. 6, viz., Sanatan Dharma Sabha Laxmi Narayan Temple Trust and to hand over the vacant possession to the Ridge Management Board, in accordance with law, within a period of two months from the date of the order.

2. The petitioner, viz., K.C. Bhargava thereafter filed an application No. 270/2013 under Section 14, section 15 (d)(c) read with Section 18(1)(12) of the NGT Act, 2010, praying for demolition of the unauthorised and illegal structure in compliance with the order of the Hon'ble Apex Court and seeking strict action against the Respondents No. 2 & 3.

3. This Tribunal passed an order stating that as Respondent No. 6 has no interest over the 7.5 acres of Ridge land, it is the duty of Respondents No. 2 & 3 to remove and demolish any illegal and unauthorised construction made therein.

4. The order of the Tribunal was assailed by Respondent No. 6 and scaled upto the Hon'ble Supreme Court in Civil (Appeal) No. 8548-8552 of 2016 but met with a severe defeat resulting in confirmation of the order recorded by the Tribunal and executability of the directions issued.

5. The applicant and the environment which is a party in absentia, are entitled to benefit and fruits of the orders of this Tribunal. Through these proceedings the applicant has sought enforcement of the orders of the Tribunal and several directions that had been issued. In our order dated 16.07.2016, the Tribunal expressed that if the authority concerned failed to comply, the Tribunal would resort to action under Rule 32 of the order 21 of the Civil Procedure Code and the consequences flowing therefrom would follow.

6. Broadly speaking, the applicant has prayed execution proceeding against the respondents for committing non-compliance of the order dated 03.03.2015 of the Principal Bench of NGT in O.A. 270/2013

and secondly, to punish the respondents for committing non-compliance of the order dated 03.03.2015.

7. It is also seen that the Respondent No. 2, viz., the Land and Development Officer (L&DO), Min. of Urban Development, as per order dated 24.04.1996, was directed by Hon'ble Supreme Court to demolish the illegal and unauthorised construction in the 7.5 acres of land within two months of the order and hand over vacant possession of the same to the Ridge Management Board. However, the Respondent No. 2 has transferred the responsibility of maintenance of the "Central Ridge" measuring 864 Ha, into the hands of the Department of Forest, Govt. of NCT of Delhi.

The Respondent No. 3 is the Chief Conservator of Forest, NCT, Delhi and is the authority responsible for maintenance and protection of the "Central Ridge".

The Respondent No. 6, i.e., Sanatan Dharma Sabha Laxmi Narayan Temple Trust, who have illegally occupied the 7.5 acres of the concerned land and constructed a road, parking lots, chabutara and other pucca construction within the Central Ridge area.

8. The applicant has mentioned that on 27.04.2009 -a reply has been received through RTI in which nowhere it has been mentioned that the boundary of 7.5 acres of land includes the land leased by Birla Mandir on north-east, reserved forest on the north-west, S.W drain on the south-east and temple lane on the south-west. The service lane which has been marked in yellow colour in the site map by Respondent No. 2 has not been mentioned which shows that the

service road is a part and parcel of the 7.5 acres of land, which is adjoining to the reserved forest on north-west boundary of 7.5 acres of land.

Again on 19.12.2015 the applicant received another reply through RTI from the L&DO wherein it has been stated that there is no service road on the 7.5 acres of land which indicated that the new service road has been built to gain access over the 4.59 acres of land used by the Birla Mandir. Further, the 7.5 acres of land includes the Prachin Maha Mahi Temple, one vacant platform, one platform with a small murti and the service road which have to be demolished. The L&D.O., i.e., Respondent No. 2 has confirmed that there are three jhuggies, showed in red colour in the site plan, the wall of jhuggies is 11.5 ft. in length from the Maha Mahi Temple. 4.5 ft. Wall of the Jhuggies out of 11.5 ft., is a part of 7.5 acres of the ridge land. 7 ft. Wall is, therefore, constructed by the alleged encroachers in the service lane.

9. The Respondent No. 3 has given a report of compliance of order dated 18.11.2016, wherein they have indicated the steps taken for demolition of the unauthorised construction inside 7.5 acres of ridge land, adjacent to Birla temple. Therefore, they were able to demolish the Prachin Maha Mahi Temple along with platform, four jhuggies and chabutara. The service road running parallel to Birla temple was left out as the representative of L&DO had contended at that stage that this is a part of the Birla Temple and, therefore, should be left out.

10. The next issue was construction of the boundary wall, adjacent to the Birla Temple. While construction could not commence for sometime as the Birla Mandir authority intervened and did not allow the construction to the staff of the Forest Department, rather instructed the Urban and Flood Control Department to cover up the area from where the Jhuggies were removed on 4.1.2017, claiming that this is an area allotted to them for service road. The Forest Department at this stage confirmed that there was no service road in the area where jhuggies were removed on 4.1.2017 and the Birla temple authority had not objected when the said demolition was carried out on that date.

11. Upon the insistence of the Tribunal for completion of the execution, finally on 5th July, 2017, the Deputy Conservator of Forest, South Forest Divn. confirmed to the Tribunal that the said boundary wall to the extent of 150 m which had been allotted to the Urban and Flood Control Department vide order dated 11.1.2017, was started and 150 m had been completed and the 7.5 acres of ridge land has completely been secured with a boundary wall. In other words, earlier they had stated that the boundary wall had a gap. Now it was confirmed that the boundary wall has been completed and the unauthorised construction have all been removed.

This amounts to a full compliance of the order of the Tribunal dated 03.03.2015. The execution has been duly complied and Respondents No. 2 & 3 have done the needful.

12. At that stage, we would only direct Respondents No. 2 & 3 to keep an eagle's vigil to ensure that after a passage of time respondent No.6, or for that matter, any other party does not start re-encroaching upon the said area which has been got cleared after a lot of difficulties. Care has also to be taken, that under no circumstances, this place is misused as a parking lot, which was the situation earlier. The construction debris which is likely to be left behind after the demolition, needs to be removed fully to restore the ridge to its earlier position.

13. The Delhi Police shall also ensure so that the Respondent No. 6 do not re-occupy this area or occupy some other area unauthorisedly in future in Delhi. It is clearly evident that prevention is better than cure and environment which is the silent spectator is constantly suffering at the hands of Parties who encroach and misuse forest land for non-forest purpose and the apathy of the Govt. departments indirectly helps the encroachers.

14. Therefore, nothing further remains for our adjudication. Hence we close this case with the above observations and no order as to costs. As Execution application is disposed of Miscellaneous Application no.194/2017 does not survive for considerations.

Dr. Justice Jawad Rahim
Judicial Member

Mr. Ranjan Chatterjee
Expert Member

New Delhi
12th September 2017