

Item No. 12

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

EA No. 22/2023

In

Original Application No. 622/2019

Jagdev

Applicant

Versus

Lieutenant Governor of Delhi & Ors.

Respondent(s)

Date of hearing: 15.07.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. K. Thomas & Mr. Vinayak Khatri, Advs. for Applicant in E.A
22/2023

Respondent: Ms. Garima Prasad, Senior Advocate with Ms. Kritika Gupta & Ms. Latika
Malhotra, Advs. with Mr. Mukesh Kumar, CE (Hort.), Mr. Indraj Meena,
Director (Hort.), Mr. Bijendra Kumar, DD, & Mr. Sunil, AD, Horticulture,
DDA
Ms. Meenakshi, Adv. for R - 2 (DUSIB)
Mr. Balendu Shekhar & Ms. Tanisha Samanta, Advs. for DPCC
Mr. Yasir Khan, Adv. for Deptt. of Forest & Wildlife (Through VC)

ORDER

1. In this execution application, seeking execution of the order dated 17.10.2019 passed in O.A. No.622/2019, the issue of encroachment adjacent to south *Gurdwara, Majnu Ka Tila* on river bed in Delhi along with the issue of cutting of trees affecting the integrity of the Yamuna River System and flood plain is involved. On the previous date, the Tribunal had taken note of the fact that encroachment on flood plain zone in *Majnu Ka Tila* were not removed. The interim order of the Single Bench of the High Court of Delhi dated 12.03.2024 passed in W.P. (C) No. 3656/2024 and C.M. Application No. 15121/2024 and 15122/2024 was

brought to the notice of the Tribunal. Hence, the Tribunal on 03.04.2024 had directed as under:-

“5. Hence, except for the property/person covered by the interim order dated 12.03.2024 passed in W.P. (C) No. 3656/2024 by the High Court of Delhi, the DDA and all the concerned authorities are required to take effective steps for compliance of the order of the Tribunal dated 17.10.2019 in respect of others. All the concerned authorities are directed to extend full cooperation to the DDA in this regard. Learned Counsel for the DDA has assured that on receiving the full cooperation from the other authorities, the DDA will duly comply with the order of the Tribunal. Hence, four week’s time is granted for the same to the DDA.”

2. Learned Counsel for the DDA submits that so far as the W.P. (C) No. 3656/2024 is concerned, it has been filed by one Ravi Ranjan who is not the resident of the area concerned and who does not have any property in that area and the Writ Petition is also not filed and registered as PIL, hence, the DDA has filed an application before the Learned Single Bench of the High Court seeking clarification in respect of the persons/properties covered by the interim order of the High Court and also seeking vacation of the interim order of the High Court.

3. Learned Counsel for the DDA has also referred to the order of the Division Bench dated 08.07.2024 in W.P. (C) No. 8035/2024 and CM Appl. No. 33044/2024 whereby the Division Bench of the High Court has directed as under:-

“6. Keeping in view the aforesaid, this Court directs the Vice Chairman, DDA, to remove all encroachments and illegal construction on the Yamuna river bank. river bed and drains flowing into river Yamuna. He is also appointed as the Nodal Officer and shall coordinate with officials of MCD, Delhi Police, DMRC, Irrigation and Flood Control Department, PWD, Delhi Pollution Control Board and Forest Department. The Vice Chairman, DDA shall convene a meeting of all the concerned officials within a week.”

4. She has also referred to the order dated 05.07.2024 passed by the Division Bench of the High Court of Delhi in LPA No. 544/2024 and CM

Application No. 37088/2024 wherein while dismissing the intra-court Appeal, the Division Bench of the High Court has observed as under:-

“6. From the perusal of the paper book, it is apparent that Yamuna Khadar Jhuggi Camp located at Yamuna Khadar, Chilla Village, Phase 1 6. Mayur Vihar. Delhi-110091 falls in the River Yamuna Floodplain/Riverbed. The said land was acquired by DDA vide award dated 09th June, 1992 for a public purpose, namely for the Planned Development of Delhi 'for Channelization of River Yamuna. DDA had taken physical possession of the said area in 1997.

7. Consequently, this Court is of the view that the appellant, a union of slum clusters, being a rank encroacher of government land has no right to file a high prerogative writ petition.

8. The flood plain area is a prohibited activity zone and is an important component of a river ecosystem. Encroachment in this area leads to diversion in the flow of water leading to floods in adjacent areas. Consequently, many experts believe that floods in Delhi are man-made as they have been caused primarily due to encroachment of drains and riverbeds, thereby restricting the flow of water to Yamuna and in Yamuna.

9. Further, the illegal construction endangers the ecologically fragile Yamuna floodplains. Also, as the area in question had been acquired by DDA for channelization of river Yamuna, this Court is of the view that removal of the appellant-union from the said area is in public interest.”

5. The above Division Bench orders of High Court of Delhi are required to be fully complied with if there is no legal impediment in this regard.

6. Learned Counsel for DDA has also submitted that the application for clarification and vacating of interim order is coming up before the Singh Bench of High Court of Delhi within this week. Hence, a short adjournment has been prayed for today.

7. The prayer is allowed.

8. List on 15.10.2024.

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

July 15, 2024
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