

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.605/2022

Poonam Sharma

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 02.12.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None.

Respondents: Mr. Satyalipsuray, Advocate for MoEF & CC.

**Application under Sections 14 and 15 read with section 18 (1) of the
National Green Tribunal Act, 2010.**

ORDER

1. The applicant has filed the present application under Sections 14 and 15 read with Section 18 (1) of the National Green Tribunal Act, 2010 complaining about cutting of two old majestic trees having heritage value and seeking issuance of appropriate directions to the respondents to take stringent action for the removal thereof and to seal the premises and further revoke the sanctioned plan of A-1 and A-2, South Extension Part-II, New Delhi due to having been sanctioned on false presentation of the facts by the architect by concealing the two majestic old trees.

2. Vide order dated 25.08.2022, the applicant was allowed to file application for impleading the owners of Plot no. A-1 and A-2, South Extension Part-II, New Delhi. However, no application for impleading them

has been filed by the applicant. None has appeared on behalf of the applicant today.

3. Vide order dated 25.08.2022, notice was ordered to be issued to respondent no. 4 requiring him to file his response/ reply to the allegations made in the application within four weeks.

4. In compliance thereof status report has been filed by respondent no. 4 vide email dated 28.09.2022. The relevant part of the status report is reproduced as under:-

" STATUS REPORT ON BEHALF OF THE DEPUTY CONSERVATOR OF FORESTS, SOUTH FOREST DIVISION, DEPARTMENT OF FORESTS AND WILDLIFE, GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI.

A. Facts of the case:-

1. It is submitted that an owner of the property had applied vide application No. ID-7111 on the e-forest portal seeking permission for felling of 2 nos. of trees for the purpose of construction of property at A-1 & A2, South Extension Part II, New Delhi. Copy of the application is annexed herewith as **Annexure R-4/1**.

2. It is pertinent to note that instead of allowing felling of trees, the request letter was sent to the applicant by Respondent No 4 vide letter number I.D-7111/TO(S)/TC-removal/2022-23/9152 dated 03.08.2022 with the recommendation of transplantation of 2 nos. of trees. Furthermore, the said recommendation was proposed, while considering the due process of law which was followed by the inspection, also compensatory plantation/ transplantation land details, SDMC building sanction plans, self-undertaking details, and property papers taken from the applicant. Copies of the relevant documents submitted by the applicant in this regard are annexed herewith as **Annexure R-4/2 (Colly)**.

3. It is respectfully submitted that the permission dated 05.08.2022 of the Respondent No. 4 has been passed in accordance with, and after following the procedure laid down in the Delhi Preservation of Trees Act ("DPTA") for transplantation of 02 nos. trees to the owner of the property at A-1 & A2, South Extension Part II, New Delhi. Further, the mechanism for compensatory plantation/afforestation has been provided in the permission granted by the Respondent No. 4 vide permission dated 05.08.2022. Copy of the permission is annexed as **Annexure-R4/3**.

4. It is submitted that to compensate for loss to the environment, the Respondent No. 4 has directed to plant 20 (Twenty) trees saplings of indigenous species in lieu of transplantation of 2 (two) trees. Further, it is specifically stated in Para 5 of the Terms & Conditions mentioned in the permission of Respondent No. 4 dated

05.08.2022 that if any tree is found to have nest of birds it should not be felled till the same is abandoned by the birds.

5. It is pertinent to note that a security deposit of INR 69,000/- (Sixty-nine thousand) has been deposited by the above Applicant i.e., owner of the property for the purpose of creation and maintenance of compensatory plantation for a period of 7 (seven) years.

6. It is respectfully submitted that the above-mentioned permission was initially given wherein names of 02 (Two) Nos trees i.e. 01 Papri and 01 Botalburoosh were wrongly mentioned instead of 02 Nos Palm & Jamun trees situated at A-1 & A-2, South Extn. Part-II, New Delhi. The corrigendum dated 10.08.2022 was issued by the Respondent No. 4 with the correct name of 02 Nos trees which read as 01 Nos Palm & 01 Nos Jamun trees situated at H. No. A-1 & A-2, South Extn. Part-II, New Delhi with the same terms & conditions. Copy of corrigendum dated 10.08.2022 is **annexed as Annexure R-4/4.**

7. It is submitted that the transplantation of 2 nos. of trees was done hastily/ improper and the due procedure of the transplantation was not followed by the applicant due to which the Respondent No. 4 booked a tree offense against the applicant i.e., owner of the property as per provisions of Section 8 of Delhi Preservation of Trees Act, 1994.

8. In this regard, the work stop order was issued by the Respondent no. 4 on 08.08.2022 based on the inspection which was carried out on the ground by the inspecting officer wherein it was found that the tree offense had been committed. Further, the said information was also provided to the concerned Station House Officer, South District, New Delhi for implementation of the orders of Respondent No. 4 vide letters dated 10.08.2022 and 16.08.2022. Copies of the said letters are annexed as **Annexure-R4/5.**

9. That Show Cause notices dated 22.08.2022 under the Delhi Preservation of Trees Act, 1994 were issued by the tree Office (Respondent No. 4) to the property owner of A-1 & A2, South Extension Part II, New Delhi for not following the proper procedure of transplantation of trees.

10. That as per notices under the Delhi Preservation of Trees Act, 1994 hearing was held on 24.08.2022 with the property owner of South Extension Part II, New Delhi. Respondent No. 4 directed the inspection officer to inspect the area of transplantations and submit a report based on it. Copies of Show Cause Notice, attendance sheet, and inspection report are annexed as **Annexure R-4/6 (Colly).**

11. That during the above-mentioned inspection, it was revealed that transplanted trees were surviving.

12. It is submitted that Respondent No. 4 imposed the fine of Rs. 40,000 on the applicant as per Section 21 of the Delhi Preservation of Trees Act, 1994. The said offense was compounded and offender has submitted compounding fees of Rs. 40,000 vide TR No. 11 dated 25.08.2022. With this, the matter was disposed off by Respondent No. 4. Copy of Order dated 25.08.2022 and vide F.no

168/TO(S)/TOC//22-23/10050 along with TR Receipt is annexed as **Annexure R-4/7 (Colly)**.

B. Reply to the allegations made by the Petitioner:

13. It is pertinent to note that the Delhi Preservation of Trees Act ("DPTA") does not distinguish between old and new trees as alleged by the Petitioner. Moreover, in this present case both the trees were not old and majestic as claimed by the petitioner. One tree was ornamental Palm and the other one was Jamun tree.

14. The tree offense was compounded and disposed off and the cost of Rs. 40,000 was paid by the applicant. Therefore, seal was removed from the property.

15. That the Delhi Preservation of Trees Act, 1994 and rules made there-under prescribe a procedure which is followed by the Respondent No. 4 for processing tree felling applications. Tree felling permissions are given only when there is a legitimate need for a tree to be cut.

16. In this case, the property owner made the application to remove two trees from a plot for construction of building. Approved building plan, property documents and self undertaking were submitted by the applicant. Inspection of the site was done and the applicant was asked to deposit Rs. 69,000/- as a refundable security amount to ensure that compensatory plantation is done and maintained by the applicant. Permission for transplantation of two trees was then given. All rules and procedures were followed before issue of permission in this case.

17. Procedure followed for giving tree felling/transplant permissions remains the same, irrespective of age or variety of trees for which felling/ transplantation permission is sought.

18. After going through the prayer and application of the Applicant, it is evident that the application seems to have been filed for extraneous reasons i.e. to get the property sealed rather than to safeguard the environment.

19. Further, if the owner fails to maintain the Compensatory Plantation, then the security amount deposited will be forfeited and the work of aforesaid plantation will be undertaken by the Department of Forests and Wildlife, Government of National Capital Territory of Delhi."

5. In the status report, respondent no. 4 has submitted that owner of the property had applied vide application No. ID-7111 on the e-forest portal seeking permission for felling of 2 number of trees for the purpose of construction of property at A-1 & A2, South Extension Part II, New Delhi. Subsequently, instead of allowing felling of trees, the request letter was sent to the applicant by Respondent No 4 vide letter number I.D-7111/TO(S)/TC-removal/2022-23/9152 dated 03.08.2022 with the recommendation of

transplantation of 2 numbers of trees. Permission dated 05.08.2022 was granted in accordance with the Delhi Preservation of the Trees Act for transplantation of the two number of trees with direction for compensatory plantation/afforestation. An amount of Rs. 69,000/- (Sixty-Nine thousand) has been deposited by the applicant for the purpose of creation and maintenance of compensatory plantation for a period of 7 (seven) years. As initially correct names of the tree were not given, the corrigendum dated 10.08.2022 was issued with correct names. Since the transplantation work was done hastily/improperly, the respondent no. 4 booked applicant under tree offence and the police was informed. Subsequently, the tree offence was compounded on deposit of compounding fee of Rs. 40,000/-. The forest Department has also undertaken that in case the owner fails to maintain the compensatory plantation, then the amount of security will be forfeited and the work of aforesaid plantation would be undertaken by the Department of Forest and Wild Life, Government of NCT of Delhi.

6. In view of the status report filed by respondent no. 4, we are of the considered view that no further action is required to be taken by this Tribunal on the present application which is disposed of accordingly with the directions that respondent no. 4 shall (i) oversee that compensatory plantation/afforestation is properly done with indigenous species; (ii) periodically monitor the compensatory plantation/afforestation to ensure that the trees planted are properly numbered/geo-tagged and maintained by the project proponents for a period of 7 years and (iii) thereafter maintain the trees planted to ensure their survival even beyond the above-said period.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 02, 2022
AG