

ITEM NO.303+304 Court 4 (Video Conferencing)

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 7220-7221/2017

(Arising out of impugned final judgment and order dated 29-04-2016 in CWP No. 19148/2010 29-04-2016 in COCP No. 1135/2012 passed by the High Court Of Punjab & Haryana At Chandigarh)

MUNICIPAL CORPORATION FARIDABAD

Petitioner(s)

VERSUS

KHORI GAON RESIDENTS WELFARE ASSOCIATION (REGD.)
THR ITS PRESIDENT & ORS.

Respondent(s)

(IA No. 20252/2021 - AMENDMENT IN CAUSE TITLE IA No. 57354/2017 - APPROPRIATE ORDERS/DIRECTIONS IA No. 89574/2020 - CLARIFICATION/DIRECTION IA No. 48851/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 48850/2021 - EXEMPTION FROM FILING O.T. IA No. 89573/2020 - INTERVENTION/IMPLEADMENT IA No. 48843/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

W.P.(C) No. 592/2021 (PIL-W)

(FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 64532/2021 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 65543/2021 FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 65544/2021 FOR MODIFICATION ON IA 71098/2021 FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 71100/2021 FOR INTERVENTION APPLICATION ON IA 71785/2021 FOR RECALLING THE COURTS ORDER ON IA 75071/2021 FOR INTERVENTION APPLICATION ON IA 82565/2021 FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 82566/2021 IA No. 82566/2021 - APPROPRIATE ORDERS/DIRECTIONS IA No. 65544/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 64532/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 71100/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 82565/2021 -INTERVENTION APPLICATION IA No. 71785/2021 - INTERVENTION APPLICATION IA No. 71098/2021 - MODIFICATION IA No. 65543/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 75071/2021 - RECALLING THE COURTS ORDER)

W.P.(C) No. 657/2021 (PIL-W)

(FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 68638/2021, IA No. 68638/2021 - EXEMPTION FROM FILING AFFIDAVIT)

W.P.(C) No. 759/2021 (PIL-W)

(FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 79663/2021 FOR APPLICATION FOR PERMISSION ON IA 82248/2021 FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 82250/2021 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 82271/2021 FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 82274/2021 IA No. 82248/2021 - APPLICATION FOR PERMISSION IA No. 82250/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 79663/2021 - EXEMPTION FROM

FILING AFFIDAVIT IA No. 82274/2021 - EXEMPTION FROM FILING
AFFIDAVIT IA No. 82271/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 788/2021

(FOR ADMISSION and I.R. and IA No.84840/2021-APPROPRIATE
ORDERS/DIRECTIONS and IA No.84845/2021-PERMISSION TO FILE
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 23-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Parties

Ms. Tanim Kishore, AOR

Mr. Colin Gonsalves, Sr. Adv.

Ms. Anupradha Singh, Adv.

Mr. Haider Ali, Adv.

Mr. Satya Mitra, AOR

Mr. Arun Bhardwaj, Sr. Adv.

Mr. Samar Vijay Singh, Adv.

Mr. Vishwa Pal Singh, AOR

Ms. Nandita Jha, Adv.

Mr. Y.P. Singh, Adv.

Ms. Meenakshi Arora, Sr. Adv.

Mr. Mohit Paul, AOR

Mr. Kamal Gupta, Adv.

MS. Sunaina Phul, Adv.

Mr. B.K. Satija, AAG

Mr. Himanshu Satija, Adv.

Mr. Sanjay Kumar Visen, AOR

Ms. Adira A. Nair, Adv.

Mr. Vedant Singh, AOR

Mr. Vinay Kumar Dubey, Adv.

Mr. Vivek Dubey, Adv.

Ms. Prajakta, Adv.

Mr. Vishisht Singh, Adv.

Mr. Prateek Tiwari, Adv.

Mr. K.T.S. Tulsi, Sr. Adv.

Mr. Dimple Arora, Adv.

Mr. Saurabh Chauhan, Adv.

Mr. Rajiv Kr. Chadha, Adv.

Mr. Varun Jain, Adv.

Mr. Rajat Joseph, AOR

Mr. Ram Ekbal Roy, Adv.

Mr. Birendra Pd. Singh, Adv.

Ms. Priyanka Das, Adv.

Mr. Mukesh Chandra, Adv.
Mr. Binay Kumar Das, AOR

Ms. Aishwarya Bhati, ASG
Mr. Gurmeet Singh Makker, AOR
Mr. S.K. Singhanian, Adv.
Mr. Sumit Teterwal, Adv.
Mr. Vanshdeep Dalmia, Adv.
Mr. Chinmayee Chandra, Adv.

Mr Mathews J. Nedumpura, Adv.
Ms. Manju Jetley, AOR

Mr. J.K. Sud, ASG
Mr. Kamendra Mishra, Adv.
Ms. Vimla Sinha, Adv.
Mr. Amrish Kumar, AOR

Ms. Ruchi Kohli, AAG
Ms. Monica Gossain, AOR
Mr. Sanjay Parikh, Sr. Adv.
Ms. Srishti Agnihotri, Adv.
Ms. Tripti Poddar, Adv.
Mr Satwik Parikh, Adv.
Ms. Nupur Raut, Adv.
Ms. Khushboo Pareek, Adv.
Mr. Chandratanay Chaube, Adv.

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

SLP(C) No(s). 7220-7221/2017

Application (I.A. No. 20252 of 2021) seeking
amendment of cause title is allowed.

Cause title be amended accordingly.

Pursuant to order dated 07.06.2021, status report has
been submitted by the Corporation; and it has been
pointed out across the bar by the learned counsel
appearing for the Corporation that out of 150 acres of
forest land, demolition work in respect of unauthorized
structures standing thereon has been completed to the

extent of 74 acres. The Corporation requires some more time to take action in respect of remaining unauthorized structures standing on the forest land.

In view of the humongous task involved and the fact that the Corporation has moved into action in right earnest after the peremptory order dated 07.06.2021, we accede to that request and grant four weeks further time from today for taking necessary action in terms of the earlier orders.

W.P.(C) No. 592/2021

Mr. Colin Gonsalves, learned senior counsel appearing for the petitioner invited our attention to the draft policy framed by the Municipal Corporation of Faridabad (Annexure A-2 of the additional affidavit filed on behalf of the petitioners). He wanted to make suggestions for improving upon the stated policy terms and conditions.

As regards the improvements required in that policy, suggestions can be given by the petitioners to the Commissioner of Municipal Corporation of Faridabad by tomorrow, i.e., 24.07.2021. That be considered by the competent authority/Corporation to the extent permissible and feasible for modulating the draft policy and then

issue a formal policy document. That exercise be completed by the Corporation in the following week and final policy be notified not later than 31.07.2021.

If the policy as formulated is not acceptable to the petitioners, it will be open to challenge the same on grounds as may be permissible in law by taking out a formal application in that regard. Advance copy of such application be served on the learned counsel for the Corporation through email. We would take up this petition for further consideration on 03.08.2021 at 3:30 p.m.

Mr. Colin Gonsalves, learned senior counsel also invited our attention to the application (IA No.71098/2021). In paragraph 10 of the said application, reference has been made to several structures standing on the forest land, already identified by Mr. Kanwar Pal, Forest Minister, Haryana, as unauthorized structures which cannot be regularised.

Needless to observe that the direction to remove all unauthorized structures standing on the forest land applies to "all" unauthorized structures without any exception, including the structures referred to in paragraph 10 of the application after due verification of the fact whether it is unauthorized and is constructed on

the forest land as such. That verification shall be done within the extended time specified above and if the structure is covered in the category of unauthorized structure on the forest land, the same shall be removed within the same time.

IA. No. 71785 of 2021 and IA No. 75071 of 2021

By these applications, the applicant(s) want to intervene in these proceedings and further pray for recall of order dated 07.06.2021. As regards prayer for intervention, we do not have any difficulty in accepting that request. However, the relief to recall the order dated 07.06.2021 cannot be countenanced. For, the argument that the stated order is passed without jurisdiction, is devoid of merits.

Hence, application for intervention is allowed; and prayer seeking recall of order dated 07.06.2021 is rejected.

W.P.(C) No. 657/2021

Mr. Sanjay Parikh, learned senior counsel appearing for the petitioners, in addition to the points argued by Mr. Colin Gonsalves, would submit that the State Government in its affidavit has referred to the solemn

assurance, which according to him is not being strictly complied with. The stand taken by the State Government in paragraph 7 of the affidavit dated 22.07.2021 sworn by Dr. G. Anupama, Principal Secretary to the Government of Haryana, reads thus:

"7. That for reason of high density of illegal constructions and residing population, and the huge humanitarian angle involved, it was necessary to plan the ground operations meticulously. The planning involved consideration of following aspects-

(i) Interaction with the residents for giving possession of the subject Forest land to Government and removal of their belongings;

(ii) To facilitate the residents transport their belongings by providing to them transport vehicles etc;

(iii) To make provision for temporary shelter for those who would be in need of such a support;

(iv) To take measures under CoViD protocol for the people who would be handing over the subject forest lands as well as the officials involved in the demolition drive."

As no specific instance is presented before us regarding violation of the above aspects, we propose to reiterate that the concerned authorities must comply with the statement made in the affidavit filed before this Court, without any exception. Any affected person, having grievance about non-compliance of any of the stated aspects, can bring it to the notice of the Commissioner,

Municipal Corporation of Faridabad, who may cause to ascertain the grievance made and take corrective measures, if so required. In case, no relief can be given to the representationist in the given case, he shall record reason for not giving that relief, so that it can be examined on the next date by the Court appropriately.

W.P.(C) No. 759/2021

Ms. Meenakshi Arora, learned senior counsel appearing for the petitioners, while adopting the plea taken by the learned senior counsel appearing in the previous cases, additionally submitted that the authorities be directed to give sufficient notice to the concerned occupants before initiating demolition action, so that the occupants can make their alternative arrangements in advance; and those who are not in a position to arrange alternative accommodation can approach the Commissioner of the Municipal Corporation for such facility.

Mr. Arun Bhardwaj, learned senior counsel appearing for the Corporation, on the other hand, submits that it is not possible to give specific date and time of demolition in advance to the occupants. The demolition

activity is proceeding in a phased manner as per the logistical arrangements in place.

We can understand the constraints experienced by the Corporation - that advance notice about time and date cannot be made known to individual occupants and especially when the entire forest area is the subject matter of action in terms of order passed by this Court. Further, it is rightly pointed out by the Corporation that in paragraph 2(a) of the affidavit filed by the Corporation, it is already made clear that ample notice had been given to the occupants about the proposed action.

He further submits that as regards the submission that the occupants are not in a position to make alternative arrangements, the affidavit of the Corporation in paragraph 2(h) has clearly stated that those who want to avail of such facilities, it is being made available to them. There is no reason to doubt the correctness of the statement made on affidavit by the Corporation.

The concerned occupants are free to make representation to the Commissioner of the Municipal Corporation for providing such alternative

accommodation/temporary shelter before the demolition work begins so that suitable directions can be issued by the Commissioner. The fact that the alternative accommodation/temporary shelter offered to the concerned occupant is not to his/her liking or suitable can be no reason to delay the demolition of the structure.

Since the occupants have been permitted to approach the Commissioner as in the earlier cases, needless to observe that necessary corrective measures can be taken by the concerned authorities as per the directions of the Commissioner.

W.P.(C) No. 788/2021

Liberty is granted to serve advance copy of the petition to the learned counsel appearing for the Corporation.

The Municipal Corporation of Faridabad (Respondent No. 6) and Forest Department, Haryana (Respondent No. 7) shall file reply affidavit to this petition before the next date of hearing.

List all these matters and connected cases on 03.08.2021 at 3:30 p.m.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)