

ITEM NO.47

COURT NO.12

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 26475/2016

(Arising out of impugned final judgment and order dated 25/02/2016 in CMWP No. 59863/2015 passed by the High Court Of Judicature at Allahabad)

SUN TOWER RESIDENTS WELFARE ASSOCIATION

Petitioner(s)

VERSUS

GHAZIABAD DEVELOPMENT AUTHORITY AND ORS

Respondent(s)

(with appln. (s) for exemption from filing O.T. and permission to submit additional document(s) and interim relief and office report)

Date : 03/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. S.B. Upadhyay, Sr. Adv.
Mr. S.K. Pal, Adv.
Mr. Nischal Kumar Neeraj, Adv.
Mr. Hemant, Adv.
Mr. Nishant, Adv.
Mr. D. Kr. Pathak, Adv.

For Respondent(s) Mr. V.P. Singh, Adv.
Mr. Paresh Lal, Adv.
Mr. Pradhyman, Adv.
Mr. Mayank Pandey, Adv.

Mr. Kapil Sibal, Sr. Adv.
Mr. Navin Chawla, Adv.
Ms. Sonali Jaitley Bakshi, Adv.
Mr. J. Bakshi, Adv.
Mr. Akshay Sharma, Adv.
Ms. Ranjana Jethy, Adv.
Ms. Mohana N., Adv.
Mr. Kabir C., Adv.
Mr. P. V. Yogeswaran, Adv.

Mr. Rakesh Uttamchandra Upadhyay, Adv.
Ms. Aarti Upadhyay, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(NEELAM GULATI)
COURT MASTER

(TAPAN KR. CHAKRABORTY)
COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 3602 of 2017
(Arising out of SLP (C) No. 26475 of 2016)

SUN TOWER RESIDENTS WELFARE ASSOCIATION

Appellant(s)

VERSUS

GHAZIABAD DEVELOPMENT AUTHORITY AND ORS

Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

The Writ Petition had not been entertained by the High Court. In the writ petition, claim was raised that construction was being made in the area reserved for park. The High Court, in our opinion, prima facie ought to have examined the matter and called for the reply and thereafter should have decided the matter in accordance with law.

We set aside the impugned order and Matter is remitted to the High Court. Liberty is granted to the respondents to file their response to the

writ petition in the High Court. Thereafter the High Court to hear the matter and to decide the same afresh in accordance with law.

All the issues are kept open. In case the High Court finds it is not possible to determine that it was a park, obviously the question of maintainability of the writ application can be considered.

The High Court to hear the matter as expeditiously as possible.

The appeal is accordingly allowed.

.....J
(ARUN MISHRA)

.....J
(AMITAVA ROY)

NEW DELHI
MARCH 03, 2017