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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CONT.CAS(C) 1149/2022, CM APPL. 26421/2023, CM APPL. 44853/2023, CM APPL. 6403/2024, CM APPL. 6406/2024, CM APPL. 7979/2024, CM APPL. 22099/2024, CM APPL. 26203/2024, CM APPL. 29795/2024, CM APPL. 29796/2024, CM APPL. 32242/2024, CM APPL. 32897/2024, CM APPL. 32898/2024, CM APPL. 37645/2024, CM APPL. 44009/2024, CM APPL. 44143/2024, CM APPL. 45986/2024, CM APPL. 46221/2024, CM APPL. 47590/2024, CM APPL. 51019/2024, CM APPL. 51020/2024, CM APPL. 53808/2024

BHAVREEN KANDHARI

.....Petitioner

Through: Mr. Aditya N. Prasad, Mr. Pratyush Jain, Ms. Poorvi, Advs.

Mr. Gautam Narayan, Ms. Prabhsahay Kaur and Mr. Ankit Jain, Adv, *Amicus Curiae*

with Mr. Aditya Chauhan, Ms. Apurva Tyagi, Ms. Radhika Bansal, Ms. Divyanshu Rathi, Advs.

versus

SHRI C. D. SINGH AND ORS.

.....Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Ankur Gupta, Mr. Tarun Johari, Mr. Saurabh Tripathi, Mr. Vikramaditya Singh, Mr. Shubham Sharma, Advs.

Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Mr. Varun Pratap Singh, Mr. Rajeev, Mr. Ashish Kumar, Advs. Ms. Mehak Nakra, ASC

Mr. Farman Ali, Ms. Usha Jamnal, Advs.

Dr. Amit George, Mr. Akshat Gupta, Advs

Ms. Manika Tripathy, Mr. Ashutosh Kaushik, Advs.

Mr. Sanjay Kumar Pathak, SC with Mr. Sunil Kumar Jha,

Mr. MS Akhtar, Mr. Mayank Madhu, Ms. Mussarat B. Hashmi, Advs.

Mr. Sanjay Upadhyay, Sr. Adv. with Mr. Mohinder JS Rupal, Mr. Hardik Rupal, Mr. Surya Gupta, Ms. Mansi Bachani,



Adv.

Mr. Amit Peswani, Adv. for Ms. Nandita Rao, ASC

Ms. Hetu Arora Sethi, Adv.

Mr. Lakshay Dhamija, Mr. Sagar Rawat, Adv.

Mr. Rajesh Katyal, Ms. Seema Katyal, Adv.

SI Awant, PS Janakpuri

Ms. Avshreya Pratap Singh Rudy, Ms. Usha Jannal, Adv.

Mr. Shreyuss Shankar Joshi, Mr. Madhav Bhatia, Mr.

Shreshtu Arya, Mr. Brijesh Choudhary, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

13.09.2024

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CM APPL. 53844/2024

1. This is an application seeking directions against the MCD and the Department of Forest for de-concretisation of the Peepal/Banyan tree in Old Rajinder Nagar. In addition, the applicant also seeks contempt proceedings against the erring officers.

2. In the present case, a Peepal/Banyan tree, which seems to be at least 60 years old, is concretised. Thereafter, due to the weakening of the roots caused by rampant concretisation, the tree tilted and was threatening the adjoining house. It is stated by the applicant that rather than de-concretisation of the tree, the MCD sought permission for heavy pruning. It is stated that no inspection was done by the Department of Forest, however on 06.09.2024 personnel from the Horticulture Department, MCD have incessantly pruned the tree in question, leaving it completely bereft of any leaves. The photographs are reproduced below:-



This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 18/09/2024 at 12:16:07



3. The above narration shows the pitiable condition of the trees in and around Delhi.

4. The photographs annexed show that the tree is completely concretised, which resulted in weakening of the roots. The same could perhaps be because of an existing illegal structure, which seems to be a religious structure, covering the entire root of the tree. Thereafter, the tree has been cut and today it remains just a log of wood.

5. The MCD wrote a letter dated 30.08.2024 to the Deputy Conservator of Forest (DCF), on a complaint by the resident, that the tree is causing problem in the entry and exit of the property, thereby causing damage to life and property. Based on that complaint, the MCD has ordered heavy pruning.

6. Thereafter, the MCD has written to the DCF for taking steps and the DCF has in turn written to the MCD to take steps for restoration.

7. This is a classic example of one agency passing on its responsibility to another agency, showing total apathy towards the trees of Delhi and their



rampant concretisation.

8. This Court in CONT.CAS(C) 778/2021 on 14.02.2022 had directed as under:

“3. The learned SC for SDMC submits the Municipal Corporation has numbered 3909 trees under its jurisdiction and care. He further assures the court that each of the tree is being individually cared for and photographs in this regard too have been filed. A list of 50 trees, which have dried, possibly on account of concretization of the earth around the tree trunks, has also been annexed to the report. He states, upon instructions, that every endeavour shall be made to revive these said trees and assistance of Forest Department and expert bodies/persons will be sought in this regard.

4. The learned counsel for the petitioner states that there needs to be a Tree Disease Surgery Unit in the Corporation.

5. If the same is not already operationalized, it shall be so ensured by the Corporation before the next date. The list of officials manning this unit/ their qualifications; the vacancies, if any, and the duration of the vacancies shall be filed before the next date by the Zonal Dy. Commissioner, SDMC. The Corporation shall also ensure adequate number of tree ambulances, for the area under their control. The Court is sanguine that SDMC will find some assistance in this regard from the New Delhi Municipal Council, which has had tree ambulances for the past many years.”

9. Despite the order having been passed more than 2 and a half years ago, there are no steps, which are visible on ground, showing de-concretisation of trees and compliance of orders of this court.

10. The present case is a classic example of total disregard for the orders passed by this Court and lack of due care.

11. *Prima facie*, I am satisfied that the MCD as well as the DCF, North are guilty of contempt of the directions passed by this Court and should be



punished for contempt of Court.

12. The senior officials of MCD and the Department of Forest are responsible to ensure that the orders passed by this court are taken to their logical conclusions through their subordinate officers.

13. Let notice be issued to the Commissioner, MCD as well as to the DCF, North-West as to why contempt action should not be taken against them for violating orders passed by this Court and more particularly order dated 14.02.2022 in CONT.CAS(C) 778/2021. Let reply be filed within 1 week from today, wherein both the Commissioner, MCD as well as DCF North-West shall join through VC.

14. In addition, another affidavit showing de-concretisation of trees in Delhi will be filed under the signatures of Commissioner, MCD and PCCF within 2 weeks from today.

15. It is directed that all possible steps shall be taken to restore the tree. The DCF as well as the MCD will take a survey of the area to see that other similar trees are taken care of.

16. Ms. Nakra, learned counsel states that there was no permission to MCD either cut or prune the trees and the same was done without permission.

17. The permission by the Department of Forest, if any, to fell/prune the tree shall also be placed on record.

18. Documents handed over in court are taken on record.

19. List on 20.09.2024.

CM APPL. 53949/2024

20. The CEC report handed over in court is taken on record.

21. In the meanwhile Mr. Ali, learned counsel for the applicant shall file



the required information with regard to why 210 trees, recommended for felling under the alleged permission dated 21.06.2024, cannot be transplanted. The information shall also include the particulars of the trees sought to be felled/transplanted, including but not limited to the age and girth of all the trees sought to be felled/transplanted.

22. List on 20.09.2024.

CM APPL. 7980/2024

23. The Tree Officer shall file the report in terms of order dated 01.07.2024 and 02.08.2024

24. List on 20.09.2024.

CM APPL. 52907/2024 & CM APPL. 52908/2024

25. Ms. Nakra, learned counsel assures that no tree shall be cut without permission and information of the DCF. The SHO, PS Vasant Kunj, New Delhi shall ensure compliance.

26. List on 20.09.2024.

CONT.CAS(C) 1149/2022

27. As last and final opportunity, 1 week is granted to the respondent to place up-to-date status report in terms of the order dated 31.05.2024 and 19.07.2024.

28. Further, on 17.10.2023 in CONT.CAS(C) 778/2021, it was directed that the respondent shall ensure that all trees in District Courts and Delhi High Court are de-concretised within 48 hours. Despite almost a year, the trees in Delhi High Court have not been de-concretised. Again the departments continue to show resistance to complying with the orders of the Court.

29. It seems that *prima facie*, the PWD is in contempt of the order dated



17.10.2023.

30. Let notice be issued to the Principal Secretary, PWD as to why contempt action should not be taken for violating the order dated 17.10.2023 passed in CONT.CAS(C) 778/2021.

31. Reply be filed within 1 week from today.

32. List on 20.09.2024.

33. The Principal Secretary, PWD is directed to remain present through video conferencing mode on the next date of hearing.

JASMEET SINGH, J

SEPTEMBER 13, 2024/ MS