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

+ CONT.CAS(C) 47/2020 & CM APPL. 1194/2021

APARNA BHAT Petitioner

versus

SAKSHI SINGH & ORS Respondents

+ CONT.CAS(C) 846/2018, CM APPL. 26971/2019, CM APPL. 28473/2019, CM APPL. 28474/2019, CM APPL. 28475/2019 & CM APPL. 35330/2019

MERCK SHARP & DOHME CORP & ANR Petitioners

versus

ABHAYAKUMAR DEEPAK & ANR Respondents

Through: Mr. Ajjay Aroraa, SC with Mr. Kapil Dutta, Advocate for North DMC.
Ms. Prabhsahay Kaur, SC for DDA with Mr. Kulbir Singh, Director Horticulture DDA and Mr. Prashant Vij, Executive Engineer, DDA.
Mr. Shadan Farasat, ASC GNCTD with Mr. Bharat Gupta and Mr. Vikram Jeet Singh, Inspector SHO PS: Inderpuri.
Mr. N. Hariharan, Sr. Advocate (*Amicus Curiae*)
Mr. M.A. Niyazi, Court Commissioner.
Mr. G.S. Chauhan and Mr. Tushar Sannu, ASC for NDMC.
Mr. Gautam Narayan, ASC for GNCTD with Mr. Adithya Nair,

Advocate.
Ms. Rashmi Chopra, Advocate.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **13.05.2022**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. Mr. Shadan Farasat, the learned Additional Standing Counsel for GNCTD appearing for Delhi Police refers to a Status Report of the SHO PS: Inderpuri, stating that the RCC boundary wall protecting “green” land under Delhi Development Authority’s management has been breached at 11 points, which are as under:

“... ”

1. *Property No. WZ-386, Todapur village, back side of Bihari Colony. (Around 10 feet wide)*
2. *Bihari Colony, two carriageway towards DDA Park. Jersey barricades placed but there is opening for pedestrians from which cattle's can also cross easily.*
3. *Way near (around 20 feet), WZ-130, Dasghara Village towards DDA Land. No physical barrier.*
4. *Way near Prakash ka Makan, (12 feet) Dasghara Village towards DDA Land. No physical barrier*
5. *Kaccha rasta from the left and right side of Dasghara village towards forest area.*
6. *Way near Radio station, (width of about 10 feet) Dasghara village, Delhi*
7. *Way going towards forest area from Inderpuri towards Shamshan ghar and adjoining forest.*

Apart from above points some additional small entry points were identified on which some physical barriers are required to be installed immediately to stop entry. Therefore Dy. Director,

horticulture, Delhi Development Authority, B2 B Janak Puri, Delhi has been requested immediately take remedial action

- 1. Kitab Ka Makan, back side opening towards forest around 6 feet. physical barrier is required to installed immediately*
 - 2. Opposite Chidiya colony on main DPS Marg, no physical barrier.*
 - 3. Way neat Dada Bhaiya Mandir, DDA Park .(A 6 feet way) physical barrier is required to be installed.*
 - 4. Main DPS Marg opposite NASE complex. Around 6 feet way no barrier installed.*
- ...”

2. Albeit, Delhi Police had deployed eight police personnel from DCP-Reserve and vehicles too have been put to their disposal to prevent ingress of cattle into the forest area, somehow, the same was not sufficient. Therefore, at the request of the Delhi Police, one company of CRPF (60 Jawans) has been made available to the local police station. They are likely to be deployed in three shifts round the clock. The SHO is confident that this should be sufficient deterrent to prevent ingress of cattle into the forest area. The promptness and pace at which the SHO has ensured the deployment of forces for preservation of the environment, needs to be acknowledged.
3. Ms. Prabhsahay Kaur, the learned Standing Counsel for DDA states, upon instructions from Mr. Kulbir Singh, Director (Horticulture), DDA, present in court, that work has started for mending the broken RCC boundary wall. Indeed, it has been ensured that the work at the site has started much before the scheduled date. Albeit remedial work is going on simultaneously at multiple points of breach, the DDA would consider the suggestions of the SHO apropos the manner and

the phase in which the repair work could be carried-out, so as to make it more effective in curbing damage to trees by cattle. The court is informed by the learned counsel for the parties that thousands of cattle are stationed inside the forest land/“green” land under DDA’s management. The responsibility and jurisdiction to seize stray cattle vests with the Municipal Corporation, in the present case, the North Delhi Municipal Corporation (‘North DMC’), Veterinary Services Department, Karol Bagh. Albeit DDA has written and repeatedly intimated the said Corporation to take appropriate action, there has been absolute silence by the latter. Let North DMC coordinate with DDA to ensure that the forest area/“green” area under DDA’s management is rid of stray cattle, so that the roughly 175 acres of land, duly secured by mending of the broken boundary wall, would be available for plantation of trees.

4. It is a matter of record that monies for about 40,000 trees, collected through costs imposed on defaulting parties, in various cases before this court, are already lying deposited in the UCO Bank, Delhi High Court Branch in the name of *Office of Conservator of Forests* for their plantation in the Central Ridge and/or Southern Ridge. Some lands are also being explored by the authorities along the Yamuna River for plantation. It is also a matter of record that about 46,000/- trees have already been planted in the Central Ridge in the last over three years; albeit the target in *Merck Sharp & Dohme Corp.* matter alone was plantation of 1,40,000 trees and 25,000 trees in *Aparna Bhat*. By

order dated 11.03.2019 passed in *Merck Sharp & Dohme Corp*¹ costs of Rs.80 lacs was imposed, directing plantation of 1,40,000 trees. By the order dated 29.01.2020 passed in *Aparna Bhat*², costs of Rs.50 lacs was imposed, of which Rs.25 lacs went for AASRA Fund utilized for rehabilitation of the victims of burn injuries and plantation of 25,000 trees from the remainder amount of Rs.25 lacs. Scores of other orders in various other cases have also directed plantation of trees in Central Ridge and Southern Ridge as well as in other parts of Delhi. All plantation has been carried out by the Forest Department, GNCTD, as per their considered expert opinion regarding the variety of trees, depending on the soil type and the topography.

5. There is no dispute over the need for more greenery/green lungs in Central Delhi, indeed all over Delhi. The lands where plantation is sought to be undertaken are declared and identified forest lands or otherwise notified as “green” under the Delhi Master Plan. According to New Delhi Municipal Council (‘NDMC’), the authority which maintains Lodhi Garden, a public park spread over 80 acres in Central Delhi, the garden is home to 5,400 trees – some old some young³. A mere drive or even a walk in the vicinity of the garden lends to peace, fresh air and calmness. If land rejuvenation activity is endeavoured in right earnest, the designated forest lands/ “green” lands – totalling about 1,000 acres (of the total 2,000 acres) in the Central Ridge, the

¹ Merck Sharp & Dohme Corp. v. Abhayakumar Deepak
http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=59139&yr=2019

² Aparna Bhat v. Sakshi Singh http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=18220&yr=2020

³ www.ndmc.gov.in

long-term benefits from a denser vegetation spread over an area of about 12 Lodhi Gardens, would be too attractive and compelling to ignore. The plantation of 1,65,000 trees (1,40,000+25,000) in the Central Ridge, approximately 30 times the number of trees in Lodhi Garden will be in the larger public interest. This interest needs to be protected and augmented.

6. In the previous order dated 05.05.2022, it was noted that 864 hectares (2135 acres) of land was handed over to GNCTD by the Government of India in 2004. All of it is to be maintained as “green”, of it only 853 acres is in possession of the Forest Department, GNCTD. About 210 acres are with DDA. The remaining lands are with other agencies and entities. All these lands have to be brought back in terms of the Government of India’s Notification dated 19.05.2004 and the entire area/land has to be handed over to the Forest Department to be maintained and nurtured as “green”. If this entire land is actually developed as “green”, it could create about 25 Lodhi Gardens with far greater density of trees. The reason for higher density of trees would be that the land would be developed as forests and not necessarily as public park. But that is another matter.
7. The imperative of greening Delhi is far too urgent for the collective health of its residents and future generations. The cattle owners whose cattle stray into and/or denude forest lands and sparse green areas, cannot be seen to hold-up or push-back afforestation measures for the amelioration of Delhi’s polluted air and the multiple benefits that would ensue from greening of Delhi to future generations. Therefore, every endeavour should be made by the authorities collectively, to

secure the Ridge “green” areas for afforestation at the earliest possible. Let coordination, in this regard, be done between the Director (Horticulture) DDA (or other officer of equivalent rank); the Deputy Commissioner, North DMC and DCP concerned along with the Deputy Conservator of Forests, Department of Forests, GNCTD. The learned counsel for the parties say that they would coordinate with each other and keep the learned Court Commissioners and the learned *Amicus Curiae* informed of progress in this regard. Visits of officers and counsel to the site in the next week, shall be facilitated and due protection shall be provided to them by the local police.

8. The court is informed that apropos plantation of trees along the DND flyover, a survey has been conducted by the DDA in coordination with the Forest Department, GNCTD and in consultation with Dr. Faiyaz Ahmad Khudsar, Scientist at Centre for Environmental Management of Degraded Ecosystems, University of Delhi (CEMDE). Certain areas have been identified and work is likely to be started in the next few days for digging of pits for plantation of 7,000 trees in the first tranche. This is encouraging news. Delhi cannot wait to have its multitude of healthy trees right away. Community participation needs to be encouraged. Land-owning agencies may consider engaging RWAs and citizen’s groups in the nurturing and preservation of trees. When citizens claim the environment as their own and participate in its preservation and rejuvenation, wonders could happen. The efforts of governmental agencies would receive an immense boost and positive results are likely to be visible sooner than one would anticipate.

9. Indeed, the Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India*, (2022) 4 SCC 289 too has opined that community participation will be a reckonable force in arresting the declining tree-cover and that civil society must be placed with the responsibility to carry out afforestation activities. The Supreme Court has observed, *inter alia*, as under:-

“...32. To meaningfully arrest the problem of declining tree cover, the civil society must also be placed with the responsibility to carry out reafforestation activities. While we cannot ignore the importance of governmental responsibility in materialising the goals of sustainable development through reafforestation, we strongly endorse the idea of collective responsibility towards ensuring a sustainable future. The engagement, inclusion and participation of citizens and perhaps more significantly, the ownership of the sustainable development agenda by empowered citizens and community-level actors will contribute in a significant manner to achieving the economic, social and environmental pillars of the sustainable development agenda...”

10. The court is informed that apropos the dredging, de-siltation and rejuvenation of the lakes in the Dasghara area of the Central Ridge, Dr. Khudsar, at the request of DDA, is scheduled to visit the said lands soon. Let reports be filed before the next date.

11. Renotify on 19.05.2022.

NAJMI WAZIRI, J

MAY 13, 2022

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