

1.
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8561/2009

MOHAN LAL GUPTA Petitioner
Through Mr. S.N. Pandey, Advocate.

versus

MCD & ANR. Respondents
Through Mr. K. Datta, Advocate for
respondent-MCD.
Ms. Zubeda Begum, Advocate for respondent No.

2.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
23.10.2009

1. I have gone through the counter affidavit filed by the respondent No. 2 and the photographs placed on record by the petitioner. The petitioner had filed an application for cutting a tree about one feet in diameter, which has grown in front of drive way of his house No. 229, Vaishali, Pitampura, Delhi-34.

2. By order dated 7th January, 2009, the Tree Officer and Deputy Conservator of Forest granted permission for felling of one tree on deposit of Rs.1,000/- towards cost for compensatory plantation of ten saplings in lieu of the said tree. This permission was subsequently modified vide order dated 20th January, 2009 with the direction that the tree will be transplanted and relocated at a different location at the cost of the

petitioner. This was followed by a third order dated 19th March, 2009 holding that the tree in question does not cause any major inconvenience to the owner of the said property, thus, the removal does not merit any consideration.

3. It is apparent that the three orders are contradictory in nature. Normal presumption is that the first order dated 7th January, 2009 was passed after considering the facts of the case and conducting necessary enquiry. The petitioner has already deposited Rs.1,000/- with the respondents. The photographs shown to the counsel for the petitioner in the Court reveal that the said tree is right outside to the house of the petitioner and is obstructing the drive way. The respondents will relocate and transplant the tree to a different location in terms of order dated 7th January, 2009 read with order dated 20th January, 2009. Rs.1,000/- deposited by the petitioner will be utilized for the said purpose.

The writ petition is disposed of. No order as to costs.

SANJIV KHANNA, J.

OCTOBER 23, 2009
VKR