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

+ **W.P.(C) 5135/2016**

KAMAL NAYAN SHARMA Petitioner

Through: Mr.Rajesh Sharma, Advocate.

Versus

STATE (NCT OF DELHI) & ORS. Respondents

Through: Mr.Siddhartha Shankar Ray, Adv. for
Respondents No.-1 & 6.

Mr.Rajiv Nayar, Sr.Adv. with Ms.Meghna Mishra,
Ms. Simran Brar, Mr.Varun Kumar and Ms.Deveshi
Mishra, Advs. for R-2&3.

Ms.Prabhsahay Kaur, Adv. for GNCTD.

Mr.Rajiv Bansal, Adv. with Ms.Mansi Bajaj,
Ms.Arпита, Advs. for DDA.

Mr.Ajjay Aroraa and Mr. D. K. Puchnanda,
Advocates for NDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

28.11.2016

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1. This petition by way of public interest litigation has been filed alleging unauthorized and illegal constructions on public land, i.e., Shivaji Marg, New Delhi in violation of the guidelines/directions laid down by the Supreme Court of India in **W.P.(C) No.4677/1985** titled ***M.C.Mehta Vs. Union of India***. It is also alleged that the respondents No.4 to 6 in collusion with the respondents No.2 and 3 have been making the illegal constructions on public land.

2. In the light of the allegations made by the petitioner, we called upon the respondent No.4/Delhi Development Authority (DDA) to file an affidavit explaining the compliance of the directions of the Apex Court in ***M.C.Mehta Vs. Union of India*** with specific reference to the alleged illegal constructions in Shivaji Marg. In terms thereof, the Director (Plg.), Delhi Development Authority filed a detailed affidavit dated 12.08.2016 explaining as under:

"4. Pursuant to the orders of the Hon'ble Supreme Court in Writ Petition (Civil) 4677 of 1985, the then Vice Chairman, DDA had constituted a Committee to process the cases of "H" category industries. The said Committee after detailed deliberations concluded that the calculations to work out the land to be surrendered will be based on the Sliding Scale Method as provided under the Income Tax Act applied to the slabs given in the order of the Hon'ble Supreme Court dated 10th May, 1996.

5. On the basis of the Sliding Scale Method applied to the slabs given in the order of the Hon'ble Supreme Court dated 10th May 1996 to the land admeasuring 28.922 hectares which was in occupation of SEIL the land which was to be surrendered to DDA worked out to 18.853 hectares. The detailed calculations for arriving at this figure of 18.853 are given hereunder:-

Total area as per affidavit of the Industrial Unit	= 28.922 Ha
Land to be surrendered to DDA	= 18.853 Ha
Upto 0.2 Ha	= Nil
0.2 to 5 Ha @ .57 x 4.8 Ha (i.e.5-.2)	= 2.7360 Ha
5 Ha to 10 Ha @ .65 x 5Ha (i.e.10-5)	= 3.2500 Ha

Over 10 Ha @ .68 x 18.92 (i.e.28.922-10)

= 12.867 Ha"

3. After referring to the various subsequent orders passed by the Supreme Court as well as this Court in the applications/petitions filed for implementation of the directions in *M.C.Mehta Vs. Union of India*, it is further explained:-

"

The DDA has been calculating the percentage of land to be surrendered out of the total land in occupation of an industry in all cases on the basis of the Sliding Scale Method as applied to the slabs formulated by the Hon'ble Supreme Court. In each case, plan for surrender of land was after approval of VC, DDA, submitted before the learned Executing Court (District Judge, Delhi) and on the directions/orders of the learned Executing Court in all the matters the land Department of DDA took over the possession of land to develop it as green belt and open space."

4. So far as specific allegations made in the present case, it is submitted:-

"9. In the present case, there has been no discrimination in favour of SIEL. The contention of the petitioner that DDA has taken possession of lesser land, then what it should have under the orders of the Hon'ble Supreme Court is wholly misconceived and baseless. As a matter of fact, the surrender of land by several "H category industries" became a subject matter of scrutiny by the Central Bureau of Investigation. After detailed examination, the inquiry was closed by CBI.

10. In para-30 of the petition, the petitioner has concealed material facts from this Hon'ble Court regarding the dismissal of an application u/s 156(3) of the Cr.P.C. It is submitted that the said application was dismissed vide an order dated 13-03-2015 passed by the Ld. Metropolitan Magistrate-04, West THC, Delhi, though pendency and consideration u/s 200 of the Code

of Criminal Procedure, in the Court of learned Metropolitan Magistrate, Tis Hazari, Delhi is matter of record. The only reason given by the petitioner is that the disposal of the said application is taking sometime. This can hardly be a reason for preferring the present petition during the pendency of an Application under Section 156(3) on the same subject. The petition is liable to be dismissed on this short ground alone.

11. It is vehemently denied that the answering respondent has violated the directions of the Hon'ble Supreme Court in its order dated 10th May, 1996. It is denied that the answering respondent has entered into any conspiracy to usurp and/or grab public land, as alleged or otherwise. It is denied that the land which his SIEL was to surrender and DDA was to take over works out to 19.66764 hectares and not 18.854 hectares, as alleged or otherwise. That there is no cause of action in favour of the petitioner. There is no cheating/fraud committed by the answering respondent, as alleged or otherwise."

5. In the light of the stand taken by DDA in the afore-noticed affidavit, we are of the view that the interference by this Court is not warranted on any ground whatsoever.

6. Accordingly, we dispose of the writ petition with a direction to the respondents No.1, 3, 4, 5 and 6 to ensure compliance of the directions/guidelines issued by the Apex Court in *M.C.Mehta Vs. Union of India (supra)* in all respects.

CHIEF JUSTICE

NOVEMBER 28, 2016/'anb'

SANGITA DHINGRA SEHGAL, J