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

+ **W.P.(C) 912/2018**

MANJEET SINGH CHUGH & ANR Petitioners

Through: Petitioner no.1 in person.

versus

GOVT. OF NCT DELHI & ANR Respondents

Through: Ms. Tara Narula, Adv. for respondent nos. 1, 3 and 4 with Mr. Ashok Kr., (AE, PWD) and SI Jagdish Rai from Defence Colony Traffic and ASI Virender Singh, Pairvi Officer, Traffic.

Mr. Ajay Verma and Mr. Arjun Pant, Advs. for UTTIPEC.

Mr. Tarun Johri, Mr. Ankur Gupta, Mr. Ankit Saini, Advs. for DMRC with Mr. Sanjay Kumar, Legal Officer, DMRC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **16.08.2018**

1. The present petition has been filed by the petitioners with the following payers:

“In the premises aforesaid, the petitioner most humbly prays that this Hon’ble Court may be pleased to: -

(i) Issuance of a writ, order or direction in the nature of a writ, order or direction in the nature of a writ of mandamus for ensuring the compliance of the letters dated 09.01.2018 and 12.01.2018 to ensure the removal of the unauthorized

encroachment in the right of way of PWD Road thereby reducing the width of the road 60 Ft. to 15 Ft.”

(ii) Pass any such other order as this Hon’ble Court deem fit and proper in the interest of justice.

2. Petitioner no.1, who appears in person submits that they are the residents of South Extension Part-I and frequents the Chandu Lal Balmiki Marg leading to INA, AIIMS and Safdarjung Hospital. On January 9, 2018 and January 12, 2018, respondent no.3 / PWD, Govt. of NCT of Delhi wrote to the respondent no.1 regarding construction of INA Metro Station in between the carriageway of the PWD road at the end of Chandu Lal Balmiki Marg due to which the width of the carriageway has been reduced from 60 ft. to 15 ft. Respondent no.1 was called upon to take immediate / necessary action for removal of the unauthorized encroachment in the ROW of PWD road. It is the case of the petitioners that the unauthorized construction should be removed to ensure hamper free movement of traffic going from INA to South Extension Part-I, Defence Colony, Lodhi Road, Baraupulla Flyover and East Kidwai Nagar.

3. Respondent no. 2 DMRC has filed its counter-affidavit. In the counter-affidavit it is their stand that the construction, development and

implementation of the INA Metro Station is a part of 58 Kilometer line - 7 Metro Corridor from Mukundpur to Yamuna Vihar of Phase-III of Delhi Mass Rapid Transit Project. The INA Metro Station has been constructed by DMRC only after receipt of prior approval of the all the concerned agencies. Even though, it is stated in the counter-affidavit that 95% work of the underground Metro Station including entry / exit has already been completed by the DMRC, it was represented during hearing that the line has been commissioned and the Metro Station has become operational. An amount of Rs.95 Crores was incurred in the construction of the station. DMRC has also incurred an amount of Rs.20 Crores for the construction of the underground structure (cut and cover) and entry / exit of the station at Chandu Lal Balmiki Marg. The INA Metro Station is a crucial interchange station for Line-2 (Yellow Line) & Line-7 (Pink Line) of DMRC and is expected to share much of the footfall of Yellow Line which in addition to decongestion and saving of time would also mean, huge saving of travelling cost to users travelling from South Delhi to East Delhi as they will be using this interchange as medium to shorten their journey. It is stated,

approximately 2700 passengers are expected to use the station for boarding and alighting purpose. Therefore, the DMRC has not illegally, unlawfully encroached upon any area at Chandu Lal Balmiki Marg as alleged.

4. To enhance mobility, reduce congestion and to promote traffic safety by adopting standard transport planning practices capacity building, enforcement measures, road safety audits, traffic engineering practice and better organization coordination for improved traffic management by efficient lane capacity and work zone management, utilities coordination, developing traffic culture and avoiding transport planning pitfalls in the National Capital Territory of Delhi, the United Traffic Transportation Infrastructure (Planning and Engineering) has been set up by the DDA. The entry / exit structure of Metro Station has been done as per the lay out plan of the area prepared after re-alignment of Chandu Lal Balmiki Marg. The width of the Chandu Lal Balmiki Marg has been kept as per the decision taken by the concerned agencies. However in the meantime, the kiosks of Kashmiri Haat were shifted by the PWD during the construction of Barapullah Elevated Corridor into the realigned ROW of Chandu Lal

Balmiki Marg. So, another loop 'E' was added to the Barapullah Elevated Corridor commissioned by PWD. It was passing through the same area which resulted in reducing the width of the Chandu Lal Balmiki Marg to the currently available width of 6 meter. The carriageway, namely Chandu Lal Balmiki Marg, towards National Consumer Disputes Redressal Commission is a one way carriageway instead of two way carriageway. The technical road specification of two way road is generally of a width of 7.5 meter. Thus, the one way width of 6 meter of Chandu Lal Balmiki Marg alongside entry / exit is more than enough for free movement of vehicular traffic. It is stated that if the prayer sought by the petitioners is granted then it would not only result in huge financial loss to the DMRC but would also result in non-availability of access to the Metro Station for general public / commuters.

5. Respondent no.3 / PWD has also filed a short counter-affidavit, wherein the following stand has been taken:

- (i) DMRC has taken over 300 metre stretch of ROW of PWD road on Chandu Lal Balmiki Marg for the construction of the Metro Corridor of which reference has been made above.

- (ii) PWD officials asked the officials of the DMRC about the NOC of PWD which is required for construction of the Metro Station in between the carriageway of Chandu Lal Balmiki Marg, but they failed to produce the same.
- (iii) Reference is made to letters dated 9th January, 2018 and 12th January, 2018 to stop the construction immediately as the construction of Metro Station was treated as unauthorized construction.
- (iv) The UTTIPEC in its 54th Governing Body Meeting on 22nd June, 2017 under the Chairmanship of the Hon'ble Lt. Governor of Delhi has approved the plan of the Chandu Lal Balmiki Marg in respect of access of newly redeveloped Kidwai Nagar and the approved plan has been issued by UTTIPEC on January 8, 2017.

6. Having noted the stand of the parties in their respective pleadings, there is no dispute that the Metro Corridor of the Mukundpur - Yamuna Vihar of Delhi Mass Rapid Transit Project of Phase-III including INA Metro

Station has become operational. The Metro Station has been constructed after taking due approvals. The Chandu Lal Balmiki Marg going towards National Consumer Disputes Redressal Commission is one way carriageway. The width of 6 meter of Chandu Lal Balmiki Marg, which it is represented, is enough for easy movement of vehicular traffic in that direction. The DMRC has spent an amount of Rs.95 Crores in the construction of INA Metro Station and Rs.20 Crores for construction of underground structure and entry / exit of the station at Chandu Lal Balmiki Marg. It is also represented that 2700 persons shall be utilizing the entry / exit of the metro station. DMRC is right in contending that any direction for demolition of the Metro Station shall not only result in the obstruction of the Corridor of the Mukundpur to Yamuna Vihar Delhi Mass Rapid Transit Project, but shall also cause huge financial loss which surely is not in public interest. Further such a relief cannot be granted at the behest of two persons, who are the residents of the South-Extension Part I only on the ground that they do not have any access towards INA/AIIMS. We, except stating, that it would be the duty of the concerned authorities to keep the one way

carriageway free to access without hindrance of any sort, dismiss the petition.

CM No. 3832/2018 (for stay)

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 16, 2018/jg