

\$~62

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

+ **TR.P.(C.) 26/2019**

SOUTH DELHI MUNICIPAL CORPORATION

..... Petitioner

Through: Mr. Sandeep Bajaj, Adv.

versus

B R CONSTRUCTIONS

..... Respondent

Through: Mr. Paritosh Budhraja, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **13.03.2019**

CM APPLs. 11738-39/2019 (Exemptions)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed off.

TR.P.(C.) 26/2019

This petitions seeks transfer of section 34 CPC proceedings pending before the Patiala House Court to Tis Hazari Court because it emanates from similarly placed awards in similarly placed circumstances. The appeal was preferred there in the year 2015. The appeals before the Tis Hazari Court are listed for final hearing on 19.03.2019. Pleadings in the proceedings before the Patiala House Court in this case too have been completed and the case is ready for final arguments.

There is no opposition to the transfer sought by the petitioner.

However, in view of the fact that an earlier transfer petition, filed by the petitioner in the year 2018, was withdrawn without any reason and there is a delay of almost four years since the filing of the aforesaid petition, the relief sought is granted subject to the concerned officer of the Corporation/petitioner planting 10 trees each in the following schools run by the petitioner Corporation:

1. SDMC School, Khizrabad, Ward No. 100-S;
2. SDMC School, Batla House, Ward No. 100-S;
3. SDMC School, Jasola Vihar, Ward No. 101-S;
4. SDMC School, Masih Garh, Ward No. 101-S;
5. SDMC School, Noor Nagar, Ward No. 101-S;
6. SDMC School (Hindi), Okhla Ward No. 102-S;
7. SDMC School (Urdu), Okhla Ward No. 102-S;
8. SDMC Pry. School, JJ Colony, Madanpur Khadar, Ward No. 103-S;
9. SDMC Pry. School, Madanpur Khadar, Ward No. 104-S;
10. SDMC Pry. School, Nagli Rajapur, Ward No. 56-S/CNZ;

The plants shall be of deciduous indigenous variety and they shall be of nursery age of three and a half years old and have a height of at least six feet. The officer of the petitioner will take care of the plants at least till the end of the rainy season. Depending upon the soil type and topography, the officer may consider the following types of trees for plantation:-

- | | |
|-------------------------------|-------------------------------|
| (i) Gular (Cluster Fig) | (ii) Kadamba (Burflower Tree) |
| (iii) Pilkhan (White Fig) | (iv) Jaamun (Black Plum) |
| (v) Bargad (Banyan Tree) | (vi) Mango |
| (vii) Amaltas (Golden Shower) | (viii) Mahua (Butter Tree) |
| [Indian Laburnum] | |

- | | |
|-------------------------|-------------------------------------|
| (ix) Putranjiva | (x) Badh |
| (xi) Sagwan (Teak Wood) | (xii) Safed Siris (Albizia Procera) |
| (xiii) Kala Siris | (xiv) Anjeer |
| (xv) Kathal- Jackfruit | (xvi) Palash |
| (xvii) Arni | (xviii) Bistendu |
| (xix) Rohida | (xx) Medshingi |
| (xxi) Palash/Tesu/Dhak | |

An affidavit of compliance with photographs shall be filed by the said officer as well as by the Director, Horticulture, MCD, on or before 15.04.2019, failing which the Registry shall list the case for directions. The said officer shall also ensure the nurturing of the trees at least till the monsoon season. Therefore, he shall file a follow-up affidavit on or before 31st July 2019, failing which the Registry shall list the case for directions.

It is hoped that the children of the school will nurture the trees and expenses of the same shall be borne by the South Delhi Municipal Corporation.

Accordingly, the Arbitration Case No. 7350 of 2017 (earlier numbered as O.M.P. No. 468 of 2015) stands transferred from the learned District Court, New Delhi, Patiala House Court to the learned District Court, Central, Tis Hazari, Delhi. The learned District Judge, New Delhi, Patiala House Court, shall ensure that the file reaches to the learned District Judge, Central, Tis Hazari Court on or before 18.03.2019.

The petition is allowed in the above terms.

NAJMI WAZIRI, J

MARCH 13, 2019/acm