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

+ **LPA 299/2017**

RAJ REWAL

..... Appellant

Through: Ms.Roma Bhagat, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Kirtiman Singh, Advocate for
UOI/R1 & R2.

Mr.Vikalp Mudgal, Advocate for
ITPO/R3.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **20.02.2019**

LPA 299/2017, CM APPLs.22941/2018, 24407/2018, 24668/2018 & 24670/2018

1. Aggrieved by the dismissal of his WP(C) 2731 of 2017 by the learned Single Judge by an order dated 20th April 2017, Mr. Raj Rewal has filed the present appeal.

2. The prayer in the writ petition was for a direction to the Respondents i.e. the Union of India through the Ministry of Commerce and Industry (Respondent No.1), Ministry of Urban Development (Respondent No.2) and the Indian Trade Promotion Organisation (ITPO) [Respondent No.3] to declare the Hall of Nations, Hall of Industries and the Nehru Pavilion, located in Pragati Maidan, New Delhi, as “works of art of national

importance” and to preserve those structures “during the proposed re-development of Pragati Maidan.”

3. The case of Mr. Rewal is that he is the architect of the above buildings the construction of which commenced in 1969 and was completed in 1972. According to him the said structures had been elevated to a status falling within the ‘Berne Convention for the Protection of Literary and Artistic Works of 1886.’ The stand of the Respondents *inter alia* was that an expert committee constituted under the ‘new Unified Building Bylaws for Delhi 2016’ called the Heritage Conservation Committee (HCC) took a conscious decision to exclude buildings that are less than two generations old i.e. ‘less than 60 years in age’. The said decision was taken across the board and not confined to the aforementioned structures.

4. The learned Single Judge examined the minutes of the 53rd meeting of the HCC held on 2nd February 2017. He also took note of the decision of the Delhi Urban Arts Commission dated 1st March 2017 accepting the proposal of ITPO for re-development of Pragati Maidan. The learned Single Judge was of the view that with the expert body i.e. HCC having already examined the issue and having taken a conscious decision not to consider buildings less than 60 years old as heritage structures, and since such decision was not challenged, Mr. Rewal had no legal right to seek the reliefs prayed for. The learned Single Judge clarified that the dismissal of the writ petition would not come in the way of Mr. Rewal seeking any remedy if available under the Copyright Act, as had been sought to be urged by placing reliance on the decision in *Amar Nath Sehgal v. Union of India 2005 (117) DLT 717*.

5. This appeal was first listed on 21st April 2017 and was adjourned to 27th April 2017. On that date the following order was passed by the Division Bench:

“An adjournment is sought by Ms. Roma Bhagat, learned counsel appearing on behalf of the appellant, in order to seek amendment of the appeal, in view of the fact that the installations in the Pragati Maidan, Delhi which are the subject matter of this appeal stand demolished by the respondents.

On her request, re-notify on 19th September, 2017.”

6. It is apparent that, therefore, between 21st and 27th April 2017, the three structures which formed the subject matter of WP(C) 2731 of 2017 were demolished. Although learned counsel for the Appellant had on 27th April 2017 itself sought leave to amend the appeal, it now transpires that CM No.24668 of 2018 seeking to amend the appeal was first filed nearly 7 months later on 27th November 2017. This inordinate delay in filing the application seeking to amend the appeal, after obtaining leave from the Division Bench to do so, is not explained.

7. Even after filing the said application, learned counsel for the Appellant does not appear to have followed up on the numbering of the said application. An application for condonation of delay in re-filing the said application was filed on 30th May 2018. In effect, therefore, even after a lapse of one year after the structures had been demolished, no attempt was made by counsel for the Appellant to get the appeal amended, despite having been granted leave by the Court.

8. This is of some significance since one of the amendments sought is to the

prayer in the appeal, including a prayer for a direction to the Respondents “to provide the funds and allow the building to be restored at site or alternatively provide a fresh site and fund.” It is interesting that in the amendment application, the above plea is confined to only one of the buildings i.e. the Hall of Nations.

9. Ms. Roma Bhagat, learned counsel appearing for the Appellant sought to explain the delay in re-filing the application for amendment of the appeal to the fact that the original application with the objections had been “mistakenly tied up with another file” and was able to be discovered only around the time of re-filing i.e. 30th May 2018.

10. The Court is not inclined to permit the amendment as prayed for since it is of the view that the reliefs sought in the appeal are not capable of being granted at this stage. In the first place, as already noticed, the structures in question were demolished between 21st and 27th April, 2017 and for more than a year now, the work on the redevelopment of Pragati Maidan has been in progress. Secondly, the Appellant Mr. Raj Rewal has filed CS(COMM) 3 of 2017 on the original side of this Court. This Court has been handed over a copy of the plaint filed in the said suit. The prayer in the said suit is for a decree of mandatory injunction to compensate Mr. Rewal “for re-creating the work of architecture in the Hall of Nations and Nehru Pavilion at the same location or any other location in Delhi which is equally prominent at the earlier locations of the said buildings under the direct supervision of the Plaintiff.” The said suit appears to have been filed on 16th December 2017 i.e. shortly after the application for the amendment of the present appeal was

filed. For the reasons best known to him, Mr. Rewal engaged a different counsel to file that suit. The Court is informed that orders have been reserved on the issue of maintainability of that suit and a judgment is awaited.

11. Be that as it may, since the Appellant has already sought an alternative remedy by filing a civil suit to seek more or less the same relief that he wishes to seek in the present appeal by way of amendment, the Court sees no reason why the present appeal should be entertained. It is clarified that Mr. Rewal will be free to pursue the pending civil suit to its logical end.

12. Consequently, without expressing any view whatsoever on the prayer made by Mr. Rewal in the pending suit, the Court, for the aforementioned reasons is not inclined to interfere with the impugned order of the learned Single Judge. The appeal is accordingly dismissed but in the circumstances with no orders as to costs. The pending applications are disposed of.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 20, 2019

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