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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 09.07.2024

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LPA 190/2022 & CM nos.12800/2022, 13433/2022**GRAMEEN ATI JEEVAN SOCIETY (REGD.)Appellant**

Through: Mr S.S. Panwar, Advocate with Mr
Raghuvinder Panwar, Ms Nividita
Panwar and Mr Ravi Panwar,
Advocates.

versus

**PANCHSHILA COOPERATIVE HOUSE BUILDING
SOCIETY LTD. & ORS.Respondents**

Through: Mr Aayush Agarwala, Advocate for
respondent no.1
Mr Sanjay Katyal, Standing Counsel
with Ms Chand Chopra, Ms Neha
Bhupathiraju and Mr Nihal Singh,
Advocates for DDA/respondent no.2.
Mr Saket Sikri with Mr Ajaypal
Singh Kullar, Advs. for the
intervener.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (Oral):**

1. This appeal is directed against three orders, i.e., orders dated 02.03.2022, 08.03.2022, and 09.03.2022 passed by the learned Single Judge.
2. The record shows that *via* the order dated 09.03.2022, the learned Single Judge dismissed the application moved by the appellant for impleadment on the ground that the appellant was not a necessary party.



3. Insofar as the orders dated 02.03.2022 and 08.03.2022 are concerned, these are orders passed by the Court noticing the stand taken by the Delhi Development Authority [in short, “DDA”] pursuant to the order dated 31.03.1983 passed by the Division Bench in Civil Writ Petition no.3198/1982.

3.1 In a nutshell, the Division Bench, *via* order dated 31.03.1983, had taken note of the fact that the subject road was a “temporary link road” laid out during the Asian Games.

3.2 Since Asian Games were long over before the aforementioned order came to be passed, DDA filed an affidavit to the effect that the link road would be closed within six (6) weeks of the withdrawal of the above-mentioned writ petition.

4. The record also discloses that because steps were not taken by the DDA to close the link road, a fresh writ petition, i.e., W.P.(C) 3611/2022 was instituted by respondent no.1, in which the aforementioned impugned orders came to be passed.

5. As indicated above, both the orders dated 02.03.2022 and 08.03.2022 take into account the stand taken by the DDA in its affidavit filed in and about March 1983, which was subject matter of the order dated 31.03.1983 passed in WP (C) 3198/1992.

6. It appears that DDA took a different stand, i.e., that since the subject land had been de-notified and handed over to the Municipal Corporation of Delhi, road closure would have to be looked into after consulting South Delhi Municipal Corporation [MCD].

7. DDA, according to Mr Ayush Agarwala, learned counsel, who appears on behalf of respondent no.1, has decided to retain the subject



temporary link road and in fact, gone further by taking the position that the same needs to be widened. It is this decision of the DDA that respondent no.1 has assailed by way of a fresh writ petition i.e. W.P.(C) 7512/2024.

7.1 Mr Agarwala informs us that the appellant has not been arrayed as a party even in this writ petition.

8. Given this position, we are of the view that the appeal can be disposed of with the following directions, having regard to the position that the orders dated 02.03.2022 and 08.03.2022, were in a sense, a direction issued by the learned Single Judge to enforce the decision taken by the coordinate Bench on 31.03.1983 in Civil Writ Petition 3198/1982:

- (i) The appellant would have liberty to move the learned Single Judge for being arrayed as a party both in W.P.(C) 3611/2022 and in the fresh writ petition, i.e., W.P.(C) no.7512/2024.
- (ii) The learned Single Judge would take up both the aforementioned writ petitions together and pass appropriate orders. The learned Single Judge will also take a view as to whether both the writ petitions need to be kept alive or only one of the writ petitions, i.e., W.P.(C) 7512/2024, needs to be progressed further in view of the altered stand of the DDA. However, the learned Single Judge will take this decision after hearing the counsel for the parties.
- (iii) While deciding the matter, the learned Single Judge will not be burdened by the observations made in the impugned orders.
- (iv) It will be open to the parties to make their respective contentions, which will be considered as per law by the learned Single Judge.

9. Before we conclude, we may also note that in the previous order dated



08.02.2024, we had given opportunity to respondent no.1 and the intervener, who is represented by Mr Saket Sikri, Advocate, to place their objections on record to the status report filed by the DDA.

10. As indicated above, Mr Agarwala, who represents respondent no.1, and Mr Sikri, who represents the intervener, say that they have not filed objections to the status report filed by the DDA.

10.1 Respondent no.1, as alluded to above, has already filed a fresh writ petition having regard to the altered stance of the DDA.

10.2 Mr Agarwala contends that the altered stance also forms part of the status report which is why objections were not filed and instead, recourse was taken to a fresh writ petition.

11. The appeal is disposed of in the aforesaid terms.

12. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

JULY 9, 2024/pmc