

ITEM NO.2

COURT NO.4

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) Nos.32452-32453/2013

(Arising out of impugned final judgment and order dated 09/10/2013 in WPC No. 4924/2013 09/10/2013 in CMA No. 14098/2013 passed by the High Court of Delhi at New Delhi)

KALKAJI MANDIR VIKRETA SANGATHAN-II & ORS

Petitioner(s)

VERSUS

PIYUSH JOSHI & ORS.

Respondent(s)

(With appln.(s) for intervention, impleadment, discharge of Advocate on Record and interim relief and office report)
(For final disposal)

WITH S.L.P.(C) No.32845/2013

(With appln.(s) for permission to file additional documents, exemption from filing c/c of the impugned judgment and interim relief and office report)

S.L.P.(C)...CC 20364/2014

(With appln.(s) for permission to file SLP and office report)

Date : 16/03/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s)

Ms. Heena Sharma, Adv.
Mr. Kuldeep Singh, Adv.
Mr. Sonal Jain, AOR

Mr. Ramesh K. Mishra, Adv.
Mr. Rohit Kumar Singh, AOR
Mr. Krishna K. Singh, Adv.

For Respondent(s)

Mr. Suresh Chandra Tripathy, AOR

Mr. K. B. Rohtagi, AOR
Mr. Mahesh Kasana, Adv.
Ms. Aparna Rohatgi Jain, Adv.

Mr. R.K. Bhardwaj, Adv.
Mr. Neeraj Bhardwaj, Adv.
Mr. Dheeraj Bhardwaj, Adv.
Mr. Lakshya Bhardwaj, Adv.
Mr. Satyendra Kumar, AOR

Mr. Mahabir Singh, Sr. Adv.
Mr. Sanjee K. Saroha, Adv.
Mr. Kriti Kumar, Adv.
Mr. Rameshwar Prasad Goyal, AOR

Mr. P.K. Dey, Adv.
Ms. Sunita Sharma, Adv.
Mr. D. S. Mahra, AOR
Mr. Prabal Bagchi, Adv.

Respondent-in-person

Mr. Arun K. Sinha, AOR

Ms. Binu Tamta, AOR
Mr. Dhruv Tamta, Adv.
Ms. Nikita Shrivastava, Adv.

Mr. B. Ramana Murthy, AOR

Ms. Sumita Hazarika, AOR
Mr. Ritesh Dhar Dubey, Adv.
Mr. Prabhash Chandra, Adv.
Ms. Ipsita Behura, Adv.

Mr. Balraj Dewan, AOR

Mr. Sarvesh Mitter, Adv.
Mr. Amit S., Adv.
for M/s Mitter & Mitter Co.

Mr. K. S. Rana, AOR

Mr. Bimal Roy Jad, AOR

Mr. Rohit Kumar Singh, AOR

Mr. V. Sridhar Reddy, Adv.
Mr. Abhijit Sengupta, AOR

Applicant-in-person

Mr. Rajinder Mathur, AOR

Mr. Narender Kumar Verma, AOR

Mr. Rakesh Kumar, AOR
Mr. Ajay Amritraj, Adv.

Ms. Vibha Dutta Makhija, Adv.
Mr. Sridhar Potaraju, Adv.
Ms. Sadhana Sandhu, Adv.
Ms. Sushma Suri, AOR

Mr. P. Narasimhan, AOR

Mr. P. Parmeswaran, AOR

Mr. Kush Bhardwaj, Adv.
Mr. Har Saroop Sharma, Adv.

Mr. Sarvesh Bhardwaj, Intervenor-in person

UPON hearing the counsel the Court made the following
O R D E R

In pursuance of our earlier orders, the Committee has visited the temple in question and found certain areas of concern. The areas of concern that the Committee has noted are to the following effect:

"(a) The most fundamental problem was the non-demarcation of the temple premises, thereby permitting all authorities to pass the responsibility on without any accountability of their own. Temple land, DDA land, Mahant's land and private land seemed to all merge together without clear perimeters or fences.

(b) The construction of the toilet block by SDMC near the South Gate (the DDA Parking lot) was underway.

(c) The fence between the DDA parking and the greenbelt of Astha Kunj was broken and a lot of garbage was being thrown on the land meant to be green belt.

(d) There is a shelter constructed by DDA for temporary occupation of visiting pilgrims which was fully occupied by permanent occupants, which

was contributing to the lack of cleanliness in the area.

(e) There was leakage of water from the water pipe flowing from the tank of Delhi Jal Board which was being freely utilized by the occupants for all purposes.

(f) The North Gate (from the Lotus Temple side) had an open car parking strewn with garbage and no supervision.

(g) An open drain near the West Gate (close to the Metro station) had led to water stagnation and filth."

The Committee has suggested the following steps to be taken:-

"(a) A clear demarcation of the temple area and non-temple area be done so that there may be ease in determining responsibilities.

(b) SDMC be directed to operationalize and maintain the three toilet blocks.

(c) DDA may be directed to fully fence the green belt with fence of appropriate height with barbed wire atop it and to ensure regular visits so that the same is not breached in any manner.

(d) DDA may be directed to immediately depute sufficient staff to commence beautification of the green belt.

(e) SDMC should be directed to depute requisite staff to clean the DDA parking area as well as all other areas around the temple, especially those indicated above.

(f) Delhi Jal Board be directed to plug the leakage in the pipe and to cover the drain and also to put wire fencing to prevent open bathing and washing of clothes.

(g) SDMC should be directed to immediately take steps for renovation of the existing toilet blocks and stop drainage through the park and make sufficient number of facilities for use by men and women. The Corporation may be directed to

put in place appropriate mechanisms for ensuring periodic cleaning of all 3 toilet blocks.

(h) The DJB be directed to implement its water and drainage proposal at the earliest and to strictly comply with the timeliness indicated by it.

(i) Proper signage be put up by the temple authorities to direct disposal of trash in the garbage bins provided for the same, and for the PWD to assist in repairing the drains."

Having heard learned counsel for the parties, we are of the considered opinion that these are the areas which are to be focused upon at present.

As far as the suggestion (a) is concerned, we only direct the concerned Sub-Division Magistrate to instal a demarcating barricade by which the non-temple area can be carved out. Be it noted, he shall not go by any kind of records because that may effect the right, title and interest of the litigating parties in various courts. He shall only demarcate so that the concerned authorities can proceed with the works relating to cleanliness and other aspects.

As far as the suggestions (b) and (g) are concerned, we have been apprised that three toilet blocks are already in existence. The South Delhi Municipal Corporation (SDMC) is directed to operationalize and maintain the three toilet blocks. The maintenance being the real problem, the SDMC shall see to it that the toilet blocks are appropriately maintained and remain clean.

As far as the suggestion (c) is concerned, Ms. Binu Tamta, learned counsel appearing for the Delhi Development Authority (DDA) has submitted that the said work shall be completed within four weeks hence. It is ordered accordingly.

As far as the suggestion (d) is concerned, the DDA shall carry out the same within six weeks hence.

As far as the suggestion (e) is concerned, we direct the SDMC to depute requisite staff to clean the DDA parking area, as well as all the other areas around the temple. It is hereby made clear, as submitted by Ms. Binu Tamta, learned counsel for the DDA, that the said authority has no objection if the SDMC carries out the cleaning operation. We are sure that the authorities shall work in harmony.

As far as the suggestion (f) is concerned, the Delhi Jal Board (DJB) is directed to plug the leakage in the pipes. As far as the covering of the drains and putting wire fencing to prevent open bathing and washing of clothes are concerned, the same shall be done by SDMC. No other authority shall raise any complaint with regard to that because carrying out of such duty by SDMC is by the order of this Court.

As far as the suggestion (h) is concerned, it is submitted by Mr. Suresh Chandra Tripathi, learned counsel appearing for the Delhi Jal Board that it has already sanctioned Rs.1.38 crores for the peripheral sewerage, but as

far as the internal sewerage is concerned, the same has to be borne by the temple. It is submitted by Mr. Suresh Chandra Tripathi that as far as the infrastructural charges in respect of the internal complex is concerned, the estimated cost is Rs.3.29 crores. Mr. R.K. Bharadwaj and other learned counsel appearing for the respondents/impleaded parties shall obtain instructions from their respective clients and give the names who would voluntarily contribute for the same. Be it noted, the same shall be filed by way of a memorandum. No status shall be mentioned therein.

As far as the suggestion (i) is concerned, it is submitted by Mr. Ashok Kumar Gupta, learned senior counsel that there are two kinds of garbage bins, the small ones which are kept inside the temple and the other is bigger ones which are kept outside the temple. As far as the bigger ones are concerned, the same can be cleaned by emptying them regularly by the SDMC. As far as the garbage bins which are kept inside the temple are concerned, they shall be cleaned by the volunteers whose names find mention in the order dated 15th December, 2015. The volunteers shall report to the Committee about the cleanliness carried out by them, failing which appropriate steps may be taken against them.

Having dealt with the suggestions given by the Committee, we think it appropriate to deal with certain other facets, which have been brought to the notice of this Court

by the members of the Committee. In course of hearing, it is submitted on behalf of the Committee that there is no proper signage at the five entry points of the temple as a consequence of which there is an unmanageable crowd which has the potentiality to create an unhealthy atmosphere and may lead to stampede at any time.

Regard being had to the aforesaid submission, we are of the considered opinion that there should be three entry/exist points which should be appropriately barricaded so that the devotees remain in queue and come back in queue. The maintenance of discipline is paramount as far as the temple is concerned. Neither any "savayat" nor any devotee has any right to denigrate the sanctity of the temple. Nobody can put forth a claim that he is a better devotee than the other.

As far as the determination of three gates and fixing of barricades are concerned, the Committee shall hold a meeting with the concerned people and the Assistant Commissioner of Police. Ms. Binu Tamta, learned counsel appearing for the Union of India undertakes to convey the same to the concerned Assistant Commissioner of Police who shall assist the Committee in this regard. This exercise shall be completed within two weeks hence.

Let the matter be listed on 26th April, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master