

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS.

Respondent(s)

(ONLY I.A. NO..... OF 2023 (D. NO. 32467 AND 32471/2023) IN SLP (C) NO. 25047/2018 ARE TO BE LISTED)

[[1] INTERLOCUTORY APPLICATION NOS. 3973/2017
[REPORT OF CEC IN TERMS OF ORDER DATED 05.10.2015]
IN RE : SHREE RAGHAVENDRA SEWAASHRAM SAMITI (SRSS), HARIDWAR,
UTTARAKHAND

AND

[2] INTERLOCUTORY APPLICATION NOS. 79569 AND 79576/2019
[APPLICATIONS FOR INTERVENTION AND DIRECTIONS] WITH INTERLOCUTORY
APPLICATION NOS. 159670 AND 159677/2019 [APPLICATIONS FOR EXEMPTION
FROM FILING OFFICIAL TRANSLATION] AND INTERLOCUTORY APPLICATION D.
NOS. 14261 AND 14262/2021 [APPLICATIONS FOR URGENT LISTING OF I.A.
NOS. 79569 AND 79576/2019 AND EXEMPTION FROM FILING DULY ATTESTED
AFFIDAVIT] AND INTERLOCUTORY APPLICATION NOS. 40599 AND 40624/2023
[APPLICATIONS FOR INTERVENTION AND MODIFICATION OF COURT'S ORDER
DATED 12.05.2022]
IN RE : SHRAMIK RICKSHAW CHALAK-MALAK SEVASANSTHA

AND

[3] INTERLOCUTORY APPLICATION NOS. 196062 AND 174896/2019
[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]
IN RE : PATNITOP DEVELOPMENT AUTHORITY

WITH

SLP(C) No. 25047/2018 (XVI)

(IA No. 32471/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 32467/2023 - INTERVENTION/IMPLEADMENT)

Date : 24-02-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH

Amicus Curiae

Mr. Harish N. Salve, Sr. Adv. [A.C.] (Not Present)
Mr. A.D.N. Rao, Sr. Advocate [A.C.] (Not Present)
Ms. Aparajita Singh, Sr. Advocate [A.C.] (Not Present)
Mr. Siddhartha Chowdhury, Advocate [A.C.] (Not Present)

Mr. K. Parameshwar, Advocate [A.C.]
Ms. Arti Gupta, Adv.
Ms. Kanti, Adv.

Counsel for parties

Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Archana Pathak Dave, Adv.
Ms. Suhashini Sen, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. S. S. Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramanyam, Adv.
Ms. Shivika Mehra, Adv.
Ms. Shagun Thakur, Adv.
Ms. Ameyavikrama Thanvai, Adv.

Ms. Ms Aishwarya Bhati, ASG
Mr. Mohit D. Ram, AOR
Mr. Ravi K Chandna, Adv.
Ms. Shruti A Chandna, Adv.
Mr. Gaurav Tripathi, Adv.
Mr. Karan Chhibber, Adv.
Ms. Shivika Mehra, Adv.
Mr. Rajul Shrivastav, Adv.
Mr. Anubhav Sharma, Adv.

Mr. Shyam Divan, Sr. Adv.
Ms. Nina Nariman, Adv.
Ms. Tahira Karanjawala, Adv.
Mr. Arjun Sharma, Adv.
Mr. Shreyas Meheshwari, Adv.
Mr. Ritwik Mohapatra, Adv.
For M/s. Karanjawala & Co.

Dr. Abhishek Atrey, Adv.
Mr. Krishnam Mishra, Adv.
Ms. Ambika Atrey, Adv.
Ms. Vidyottma Jha, Adv.

Mr. Shailesh Madiyal, AOR

Mr. Shailesh Madiyal, Adv.
Mr. Vaibhav Sabharwal, Adv.
Mr. Akshay Kumar, Adv.

Ms. Misha Rohatgi Mohta, Adv.

Ms. Rachana Srivastava, Adv.

Mr. Jasmeet Singh, Adv.

Mr. Naveen Kumar, Adv.
Ms. Aprajita Bhardwaj, Adv.

Mr. M. Shoeb Alam, Adv.

Mr. Prashant Bhushan, Adv.
Mr. Kunal Chatterji, AOR
Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.
Ms. Kshitij Singh, Adv.

Ms. Astha Sharma, AOR

Mr. Naresh Kumar, AOR

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

I.A. NO.3973/2017 (ITEM NO.1)

Dr. Abhishek Atrey, learned counsel appearing for the State of Uttrakhand submits that the unauthorized construction has already been demolished and the possession of premises has been taken over by the Forest Department.

As such no orders are required to be passed in this application.

The I.A. is, accordingly, disposed of.

I.A. NOS.79569, 79576, 159670 & 159677 OF 2019, 14261 & 14262/2021, 40624 and 40599 of 2023 (ITEM NO.2)

Mainly two issues are involved in these applications i.e. (i) With regard to permitting the E-Rickshaws in the city of Matheran; and (ii) Laying down of paver blocks etc. on the roads in the city of Matheran.

Shri K. Parameshwar, learned Amicus Curiae, submits that on account of the restrictions of permitting any vehicles within the city of Matheran, a lot of inconvenience is caused to the citizens. He submits that the children in the city find it difficult to attend the schools, solid waste is required to be carried on the head of the inhabitants causing serious health hazards, LPG cylinders could not be distributed to the residents etc. He further submits that inhuman practice of man-pulled rickshaws is still prevalent, which is in derogation of the Right to Life, as enshrined under the Constitution of India.

He, therefore, submits that if E-Rickshaws are permitted, the present persons who are manually pulling rickshaws can use E-Rickshaws, which will, in addition to continue to provide them livelihood will also be helpful to the citizens.

Shri Shyam Divan, learned senior counsel, on the contrary submits that the special status of Matheran has been recognized by this Court and as such the Ministry of Environment and Forests (MoEF) issued Notification dated 04.02.2003 declaring Matheran and surrounding region as an Eco Sensitive Zone. He further submits that on account of laying of paver blocks on the roads, the entire beauty of the city is being compromised. Not only that, on account of the same, there is a possibility of the residents sleeping on the said roads and thereby facing accidents. He further relies on some of the photographs annexed with I.A. No.40624/2023, to show that the horses have fallen and injured in the process on account of laying down of the paver blocks.

No doubt that the environmental aspect and specifically when the city of Matheran has been notified as Eco Sensitive Zone has to be preserved. However, at the same time, the human beings residing there and the man-pulling rickshaws also need to be taken into consideration. The Notification dated 04.02.2003 and specifically clause (5) thereof provides for constitution of the Monitoring Committee. The said Committee consists of various experts including the representatives of the Ministry of Environment and Forest, Central Pollution Control Board, Department of Environment,

Department of Urban Development, subject experts etc.

We find that it would be appropriate that the said Monitoring Committee takes a call with regard to permitting the E-Rickshaws and the laying down of paver blocks.

Prima facie, we find that laying down of paver blocks would destroy the natural beauty of the said city. It cannot be in dispute that even prior to laying down of paver blocks the man-pulled rickshaws were plying on the roads in the said city. If that be so, there should be no difficulty in the E-Rickshaws plying on the same roads, which are in existence for ages.

Even in the reserved forests there are no concrete roads and the safari vehicles are plying on the jungle roads. The same can also be considered for the city of Matheran.

This, in our view, would balance the concern of both the sides.

We, therefore, direct the Monitoring Committee to take a call on the aforesaid two issues and submit its report within a period of eight weeks from today.

We further direct that, until further orders, no further paver blocks be laid on the roads in the city of Matheran.

List after eight weeks.

I.A. NO.196062 & 174896/2019 (ITEM NO.3)

Application for impleadment (I.A. NO.196062) is allowed.

I.A. No.174896/2019 is filed with the following prayer:-

"Allow the present Application and permit the Applicant to construct a Convention Centre at Patnitop after demolishing the existing dilapidated Club Building of Jammu and Kashmir Tourism Development Corporation (JKTDC)."

The application is allowed, subject to obtaining clearances from the Statutory Authorities concerned.

I.A. NO.32467 & 32471/2023 in SLP(C) No.25047/2018(ITEM NO.4)

Leave is granted to implead writ petitioner(s) before the High Court as well as the Government of NCT of Delhi, as party respondents.

Necessary amendment be carried out forthwith.

Issue notice to the newly added respondents, returnable on 27.02.2023.

I.A. NOS.21531/2023 & 21636/2023 IN W.P.(C) NO.202/1995

These applications were mentioned before the Court today.

Upon being mentioned, the Court directed to list these applications on the day when the other applications are listed before the Court after ensuing Holi holidays.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)