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

+ W.P.(C) 4302/2015 & CM APPL. 7796/2015, 9124/2015, 9230/2015,  
10004/2015, 13078/2015, 19041/2016 & 6165/2017

**THE INDIAN NATIONAL TRUST FOR ART & CULTURAL  
HERITAGE (INTACH) & ANR** ..... Petitioners

Through Mr. Gourab Banerjee, Sr. Advocate with  
Ms. Charu Ambawani, Ms. Manisha  
Singh, Mr. Mohit Pandey and Mr. Raka  
Chatterjee, Advs.

versus

**DELHI DEVELOPMENT AUTHORITY & ORS..... Respondents**

Through Mr. Arjun Pant, Adv. for DDA.  
Mr. Akshay Makhija, CGSC for ASI.  
Ms. Arti Bansal, Adv. for SDMC.  
Mr. Akshay Makhija, CGSC with Ms. Kirti  
Awasthi, Adv. for R-3.  
Mr. Anuj Aggarwal, ASC with &  
Mr. Kanishk Rana, Advs. for GNCTD/R-4.  
Mr. Hashmat Nabi, ASC with Ms. Swathi  
Vajjhala, Adv. for Delhi Waqf Board/R-8  
Ms. Tasneem Ahmadi, Adv. for applicant  
in CM No.9229/2015 & 9230/2015  
Mr. Satish Kumar Tripathi and Mr. Amit  
Kumar Dubey, Advs. for applicant in CM  
No. 9124/2015

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**

% **09.05.2018**

The Court had on 17<sup>th</sup> May, 2017 directed the setting up of a  
committee in the following terms:

*“..... In the circumstances, the Court hereby directs the  
Delhi Development Authority (DDA) to forthwith take  
appropriate steps to fence the entire area, and ensure that*

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*the areas where encroachment exists are clearly excluded, for the time being till the matter is resolved, so as to ensure that there is no further encroachment into the areas that are not encroached. This rider would apply to the Western part of the park. In regard to the other areas, the DDA shall go by the demarcation report furnished to the Court which is part of the record and proceed with their task of fencing immediately. The Court is also of the opinion that a comprehensive management plan, for the improvement and management of the park should be prepared, in furtherance of the minutes of meeting chaired by the Member Secretary to the Lieutenant Governor on 04.02.2014 (the minutes of which are part of the record as Annexure 'P15' to the writ petition). The management plan would contain essential elements such as the identification of officials from all the concerned agencies such as ASI, DDA, the SDMC, Delhi Waqf Board, Government of NCT of Delhi, Delhi Police, Delhi Jal Board as well as the petitioner/INTACH. It shall be chaired by a nominee of the Archaeological Survey of India (ASI). The plan shall be prepared at the earliest and in any case within 8 weeks from today. For this purpose, the first meeting of the Committee to be formed shall be held on 29.05.2017 in the office of the Director General, ASI at 04:00 p.m. The plan shall include all necessary elements such as identification of monuments, steps to identify and protect various structures and the stage-wise conservation plan, steps to secure the monuments, the timelines for achieving various objectives, etc. in respect of the various areas/monuments. This would include but not be limited to the points mentioned in the minutes of the meeting of 04.02.2014 referred to in the earlier part of the order.....”*

It is pointed out by the learned Amicus Curiae that the Committee appointed does not appear to have proceeded in any manner after 10.01.2016. Copy of the minutes have been made available to the Court. The minutes of the report clearly show that the Committee appears to have been bogged down by the issue of ownership and felt itself constrained till the concerned agencies resolve the issue.



The Delhi Building Bye-laws, 1983 and the subsequent Bye-laws of 2016 contain stipulations which impose restrictions on development, re-development, repairs etc of heritage monuments. Furthermore, the SDMC is under an obligation to prepare a list of heritage sites including heritage buildings (Bye-law 23.5). The restriction of development etc. is contained in Bye-law 23.3. Having regard to the stringent conditions imposed by these provisions, the Court is of the opinion that the Committee should not be constrained in any manner with the issue of ownership and is hereby directed to proceed further with its task of conducting a survey and preparing the management plan for the conservation of heritage sites including the various monuments. It is stated that the minutes of 10.01.2016 indicate that the list of 127 monuments have been made available to all concerned authorities. In the circumstances, the directions given by the Court, shall be implemented and the meetings of the Committee shall be held as directed (in fortnightly intervals) as expeditiously as possible. The report shall be filed in Court within four months from today. The Committee shall ensure that surveys are conducted on 3 or 4 Sundays, in the months of May and June respectively.

List on 8<sup>th</sup> August, 2018.

Order *dasti*.

**S. RAVINDRA BHAT, J**

**A. K. CHAWLA, J**

**MAY 09, 2018/rc**

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