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

+ W.P.(C) 4302/2015

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

..... Petitioner

Through: Ms. Manisha Singh, Ms. Ishita  
Mishra, Ms. Charu Ambvani,  
Advocates

versus

**DELHI DEVELOPMENT AUTHORITY & ORS**

..... Respondent

Through: Mr. Arjun Pant, Advocate Mr. K.K.  
Malviya, with Mr. V.K. Kashyap,  
(Ex. En.) DDA  
Mr. Sumeet Pushkarna, Advocate for  
DJB  
Ms. Arti Bansal, Mr. P.N. Shukla,  
Advocate for SDMC  
Mr. Akshay Makhija, CGSC with Ms.  
Seerat Deep Singh, Advocate for  
Respondent No. 3 (ASI)  
Inspector Sushma Saxena, Police  
Station Mehrauli, Delhi  
Mr. Anuj Aggarwal, Additional  
Standing Counsel with Mr. Atul  
Goyal Advocate for Respondent No.  
4 (Delhi Deptt of Archaeology)  
Ms. Charu Dalal, Advocate for Delhi  
Wakf Board.  
Mr. Satish Kumar Tripathi, Advocate  
for applicant in C.M. Appln. No.  
9124/2015.



**CORAM:**  
**HON'BLE MR. JUSTICE G.S.SISTANI**  
**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

% **17.07.2019**

**C.M. Appl. No. 19041/2016 (Condonation of delay)**

By this application, the respondent No. 8 seeks condonation of delay in filing the affidavit in terms of order dated 07.04.2016. For the reasons stated in the application and the fact that there is no objection from the opposite side, the application is allowed and the delay of 16 days in filing the affidavit is condoned.

Application stands disposed of.

**C.M. Appl. No. 7796/2015 (Interim relief), 9230/2015 (Clarification), 10004/2015 (impleadment), 13078/2015 (Interim directions), 6165/2017 (Directions).**

All the applications filed by the respective parties are dismissed as not pressed, with liberty to file afresh, if the need arises.

Applications stand disposed of.

**C.M. Appln. No. 9124/2015 (Impleadment)**

Application filed by the applicant is dismissed as withdrawn with liberty to take appropriate remedy as available in law.

No coercive action shall be taken for the period of two weeks from today.

Application stands disposed of.

**W.P.(C) No. 4302/2015**

Two issues have been flagged by learned counsel for the petitioner at this stage; firstly, that the Total Station Survey, which



was to be conducted in compliance with the order dated 27.05.2015 has still not been completed. Mr. Pant, on instructions, submits that the boundary walls which have been constructed up to almost 90 per cent, cannot be completed till the survey is finalised. We direct that the Survey be completed within six weeks from today, failing which the concerned officer shall remain present in Court on the next date of hearing. The reasons for not complying with the order will also be stated on affidavit to be filed before the next date of hearing.

The second issue which is being flagged is with respect to the prayer 'd' made in this writ petition which we reproduce below:

*“D) Issue a writ or direction to finalize and implement a Comprehensive Conservation Management Plan for the entire Mehrauli Archaeological Park, for its effective management, and for its designation as a Buffer Zone of the World a Heritage Site of the Qutub Minar Complex, bringing the area under one appropriate conservation authority and eliminating the current confusion created by the multiplicity of stake holders.”*

We are informed that there are directions in the past pertaining to this prayer, which find reflected in the order dated 17.05.2017, which we produce below:

*“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 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.*

*The petitioners point out that the Khanshahi Tomb, a centrally protected monument, owned by the Delhi Waqf Board has been encroached. The petitioners' affidavit is enclosed and also gives particulars as to the nature of the encroachment. ASI's status report dated 15.05.2017 has disclosed the details of such encroachment and backed up the claim with photographs.*

*The counsel for the Waqf Board requests for two*



*days' time to ascertain the correct position.*

*It is quite evident that the monument appears to be encroached. This is quite evident from the photographs which show fresh constructions underway as well as heap of cement and other construction material at site. The Delhi Waqf Board shall ensure that appropriate action is taken in this regard for the removal of such encroachment, as well as the unauthorized structures, before the next date of hearing. The Action Taken Report shall be filed by the Delhi Waqf Board in this regard.*

*The ASI shall file an Action Taken Report with respect to the steps taken vis-a-vis the meetings held pursuant to these directions, within four weeks from today. The DDA, likewise, shall file an Action Taken Report with respect to the directions concerning fencing.*

*It was pointed out by the learned senior counsel for the petitioners that the Forest Department's stand with respect to the areas that are declared as notified forest, are unclear. The Government of NCT through its Forest Department shall file an appropriate affidavit clarifying the aspect and stating clearly which areas are part of the declared forest. The Delhi Police shall ensure that no further encroachment is made. It shall also ensure that at the time of fencing, especially in the Western side, appropriate photographs are taken to mark the extent of encroachment so that if the need arises in future, necessary action can be taken."*

Mr. Mukhija, CGSC appearing for ASI, submits that although the Committee has been put in place but the Comprehensive Conservation Management Plan has not been finalised. We direct the Committee to finalise the Comprehensive Conservation Management Plan as early as possible. The interim report shall be submitted before



the next date of hearing. We direct the respondents to take all necessary steps to ensure that the area in question, i.e. Mehrauli Archaeological Park is free from any encroachment. No fresh construction shall be allowed except with the leave of this Court. Any violation of this order shall be viewed seriously.

The Committee is directed to take extensive photographs of the area and place one copy thereof in the court file and one copy in their file to ensure that no fresh construction/encroachment is carried out in the said area.

Respondents are directed to file fresh status report before the next date of hearing.

List on 27.08.2019.

**G.S.SISTANI, J**

**JYOTI SINGH, J**

**JULY 17, 2019**

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