

(2025) 05 DEL CK 0842

In the Delhi High Court

Case No : Civil Miscellaneous Petition No. 3370 Of 2025 in CONT.CAS(C) No. 1149 Of 2022

Bhavreen Kandhari

APPELLANT

Vs

Shri C. D. Singh And Ors

RESPONDENT

Date of Decision : 09-05-2025

Acts Referred:

Constitution of India, 1950 — Article 21, 142
Delhi Preservation Of Trees Act, 1994 — Section 8, 9, 9(3), 9(4)
Contempt of Court Act, 1971 — Section 12

Citation : (2025) 05 DEL CK 0842

Hon'ble Judges : Jasmeet Singh, J

Bench : Single Bench

Advocate : Sudhir Mishra, Petal Chandhok, Anand Verma, Shreyuss Shankar Joshi, Shreshth Arya, Madhav Bhatia, Angad Pathak, Manish K. Bishnoi, Khubaib Shakeel, Tarun Johri, Ankur Gupta, Vishwajeet Tyagi, Chetan Sharma, Sameer Vashist, Amit Gupta, Nikita, Vaishali Gupta, Manas Jha, Harshita Nathrani, Piyush Sharma, Pratush Jain, Poorvi Rewalia, Ishkaran Singh Bhandari, Rajat Mohan Dwivedi, Vaishali Gupta, Nikita Mishra, Sanjay Kumar Pathak, Pratyush Jain, Poorvi Rewalia, Digvijay Rai, Archit Mishra, R. Ali Khan, Sudhir N., Rajesh Katyal, Manu Chaturvedi, Anvi Singh, Ankit Jain, Avshreya Pratap Singh, Harshita Chaturvedi, Siddhant Nagpal, Tushar Sannu, U. Singh, Farman, Usha, Maj Anish Murlidhar, Farman Ali, Usha Jamnal, Himanshu Pathak, Archana, Amit Singh, Pratima L. Lakra, Sunil Kumar, Manish Srivastava, Yash Srivastava, Sumit K. Batra, Gautam Narayan, Asmita Singh, Satyakam, Punishk Handa, Tushar Nair, Anirudh Anand, Abheet Mangaleek, Faizeen Hussain Khan

Final Decision : Disposed Of

Judgement

Jasmeet Singh, J

1. This is an application filed by the Department of Forest and Wildlife, GNCTD seeking vacation of interim orders dated 31.08.2023, 14.09.2023 and 09.08.2024 passed by this court on the ground that the Hon'ble Supreme Court is seized of the matter. The operative portion of the order dated 19.12.2024

passed in WP(C) No. 4677/1985 by the Hon'ble Supreme Court in this regard, reads as under: -

"4. Today, we are taking up the issue regarding the grant of permissions by the Tree Officers under Section 8 read with Section 9 of the 1994 Act. We are of the view that considering the limited infrastructure available to the Tree Officers and the manner in which the provisions have been implemented, the work of granting permissions for tree felling must be supervised. We, therefore, direct that whenever a Tree Officer grants permission for the felling of 50 or more trees in accordance with Section 8 read with Section 9 of the 1994 Act, the said permission shall not be acted upon unless the same is approved by the Central Empowered Committee (for short, "the CEC"). Whenever the Tree Officers under the 1994 Act grant permission for the felling of 50 or more trees, immediately after granting such permission, the Tree Officers shall forward the entire record of the application along with a copy of the permission to the CEC. Upon receipt of the documents, it will be open for the CEC to call upon the concerned Tree Officer to furnish additional information and additional documents.

5. The CEC will carefully consider the applications and all relevant aspects and will decide whether the permission deserves to be granted or whether any modification is required to the permission or the terms and conditions imposed under the permission. We make it clear that while granting permission to fell 50 or more trees, unless the case is exceptional, a condition should be imposed that unless compliance is made with the requirement of planting trees by way of compensatory afforestation, actual tree-cutting work shall not be undertaken. After receiving orders of the CEC, the Tree officers shall amend the orders passed by them to give effect to the order of the CEC. What will prevail will be the order of the CEC.

6. The CEC, after examining the entire case, shall be empowered either to allow or reject the application, to allow the application partly or to modify the terms and conditions on which permission is granted by the Tree Officer. After the Tree Officer passes an order granting permission, copies thereof shall not be provided to the applicant. Only after the CEC passes an appropriate order, the Tree Officer will supply the copy of his order as amended by the CEC to the concerned applicant.

7. Our attention is invited to sub-Section (4) of Section 9 of the 1994 Act which introduces a deeming fiction. We direct the Tree Officers to ensure that a decision on every application is taken within sixty days from receipt, as provided in sub-Section (3) of Section 9. We also direct that as soon as an application is received under Section 9, the Tree Officers shall forward copies to the CEC so that the CEC can ensure that sub-Section (4) of Section 9 does not operate. For the time being, in the exercise of our jurisdiction under Article 142 of the Constitution of India, we direct that no one shall act upon the deemed permission under sub-Section (4) of Section 9 without prior consent of this Court."

2. Subsequently, the Hon'ble Supreme Court vide order dated 08.04.2025 has further clarified the order dated 19.12.2024. The operative portion of which reads as under: -

"6. The directions issued by us under the order dated 19th December, 2024, apply when an application is made to the Tree Officer under the Delhi Preservation of Trees Act, 1994 to grant permission for felling of 50 or more trees. Comprehensive directions have been issued under the said order of this Court for dealing with the applications for grant of permission for felling of 50 or more trees. It is obvious that the orders of the High Court of Delhi will not apply when an application is made for felling of 50 or more trees and the aforesaid directions of this Court will apply which we have quoted above.

7. As far as paragraph 8 of our order dated 19th December, 2024 is concerned, we clarify that the CEC will look into the adequacy of the reasons recorded by the Tree Officer while recommending grant of permission.

8. We are informed that an application made by the Delhi Government before the High Court of Delhi for vacating the interim orders passed by the High Court in Contempt Case No.1149/2022 has been heard and the order has been reserved on 6th February, 2025. We make it clear that subject to what we have directed above, at this stage, we are not dealing with the merits of the orders passed by the High Court of Delhi from time to time. We also make it clear that the High Court is free to decide the application which is pending before it for orders in accordance with law in the light of the orders passed by this Court from time to time and in particular the order dated 19th December, 2024 and the order passed today."

3. In the present petition, this court on 31.08.2023 passed the following order: -

"6. Mr Gupta states that till the next date of hearing no permission for felling of trees for any individuals will be granted and any permission required for important projects will be intimated to the Court."

4. Further on 14.09.2023, the court passed the following directions: -

"2. In the meantime, the directions contained in the order dated 31.08.2023 shall continue till the next date of hearing.

3. Further, no permission shall be granted for felling of trees for construction of houses."

5. On 18.03.2024, this court clarified the intent leading to the passing of the said orders. The operative portion of the order dated 18.03.2024 reads as under: -

"12. It is pertinent to note the facts leading to passing of the abovesaid order of 31.08.2023. The facts in brief are that the present petition has been filed under section 12 of the Contempt of Court Act, 1971 for willful disobedience of order dated 28.04.2022 in CONT.CAS(C) 851/2021 wherein the court directed the following: -

"8. In the circumstances, it would be appropriate that the Tree Officer(s) give due consideration to transplantation of each tree which is sought to be cut, before granting any further permission for cutting of trees. This would entail inspection of the trees which are sought. The reason for grant or denial of permission would have to be spelt out in the order of the Tree Officer along with photographs of each tree."

13. The court directed that in case any permission for felling of trees are sought, the tree officer shall inspect the site, due-application of mind has to applied and a reasoned speaking order will have to be passed along with photographs of each tree sought to be cut. The court in the order of 28.04.2022 emphasized on the public duty cast on the respondent authority and the Tree Officers to not allow felling of trees needlessly.

14. Since the same was not done, the present contempt petition was filed.

15. The order of 22.05.2023 recorded that an unconditional apology was tendered by all the respondents, including PCCF, Tree Officers of South, North and West Division however there continued to be non-compliance of orders passed by this court. In this respect, order of 24.04.2023 was passed wherein the tree officer was refrained from passing any order without inspection of the site. The operative portion of the order of 24.04.2023 reads as under: -

"2. He submits that these permissions are in contravention of the directions passed in CONT CAS(C) 851/2021 dated 28.04.2022 and 19.05.2022 titled "Neeraj Sharma vs. Vinay Sheet Saxena and Ors. " If this spade of easy permissions continues, then sooner than later, all residential colonies would be bereft of fully grown trees and cities itself, would be reduced to nothing but a mass of concrete.

3. In view of the above, the Tree Officer shall refrain from passing any orders without inspection of the site, in terms of directions of this court in the aforesaid orders and in terms of section 9 of the Delhi Preservation of Trees Act. 1994."

(emphasis supplied)

16. Since then, the learned counsel for the petitioner has put on record numerous permissions granted by the respondent authority wherein permissions of felling and cutting of trees has been continuously granted without any due-application of mind.

17. The courts have time and time again reiterated that the respondent department must ensure that the rights of the citizens to enjoy a clean and healthy environment under Article 21 of the Constitution of India is not infringed by them and various directions in this regard have been filed. However, the respondents continue to display lack of sensitization towards felling of trees and large-scale deforestation is being permitted in contravention to orders passed by this court."

6. The said orders were once again clarified on 09.08.2024. The operative portion of which read as under: -

"10. The purpose of the order dated 31.08.2023 is that in case any permission is required to be granted for felling / transplantation of trees, the same shall, in the first instance, be intimated to the Court by way of an application and only on allowing of the application, the permission shall be granted and communicated to the concerned parties. This position was previously clarified by this court in the order dated 29.05.2024 wherein the following was observed: -

"6. Even though on subsequent date, the application was withdrawn, the fact remains that even as per respondent No. 2's own understanding, respondent No. 2 was fully aware that permissions were to be intimated to this Hon'ble Court as mandated in the order dated 31.08.2023.

7. Despite the application as well as the clear ambit of the order dated 31.08.2023, admittedly, the permission granted by respondent No. 2 for construction of building at ISTM, Old JNU Campus has not been intimated to the court.

8. The above observations are in no way a blanket permission to the DCF's to construe that the order dated 31.08.2023 permits them to grant permission to cut trees for important projects."

11. Further, this court on 05.07.2024 once again made it clear that the Respondent No. 2 shall not grant any other further permissions till the contempt petition is decided by this Court. Nonetheless, the respondent has continued to grant permissions in contravention of orders of this court. This is unacceptable."

7. This court has passed several directions for the purpose of protection and safeguarding of Delhi's sole defense to rising pollution levels and rising temperatures, i.e. Trees. The sole objective behind passing of the said interim orders was prevention of further harm being instilled on our scarce but valuable resource that the National Capital Region has against the deteriorating environmental and public health. It has been brought to the attention of this court that the Department of Forest and Wildlife has time and time again failed to give due care and attention that they are statutorily bound to extend, resulting in large-scale deforestation in the city of Delhi. The same has also been observed by the Hon'ble Supreme Court in WP(C) No. 4677/1985 and in this view, the orders dated 19.12.2024 and 08.04.2025 were passed. The order of the Hon'ble Supreme Court needs to be followed in its true spirit and intent.

8. Since the CEC has been authorized by the Hon'ble Supreme Court, in terms of the order dated 19.12.2024 and 08.04.2025, to supervise permissions granted by the Department for 50 trees and more, this court is not required to supervise the same. For the said reasons, the orders dated 31.08.2023, 14.09.2023 and 09.08.2024 are vacated/modified to the extent that the permissions granted for felling/translocating of 50 trees or more will now be supervised by the CEC in

terms of the order/directions of the Hon'ble Supreme Court.

9. The application is disposed of in the aforesaid terms.

10. As regards, the interim order for permissions of upto 50 trees are concerned, the same shall continue till the SOP as indicated in the orders dated 06.03.2024, 01.07.2024, 19.07.2024, 02.08.2024, 20.12.2024 is finalized and implemented by the respondent(s).