
(2011) 04 SC CK 0143

In the Supreme Court Of India

Case No : I.A. No. 2470 in I.A. No. 2187, 2204 in I.A. No. 22 in Writ Petition (C) No. 4677 of 1985, I.A. No's. 2456-2457 in I.A. No. 22 in Writ Petition (C) No. 4677 of 1985. I.A. No. 2482 in I.A. No's. 2051-2052 in Writ Petition (C) No. 4677 of 1985, I.A. No's

M.C. Mehta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 26-04-2011

Acts Referred:

Citation : (2011) 8 SCALE 9

Hon'ble Judges : V.S. Sirpurkar, J;G.S. Singhvi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

I.A. No. 2470 in I.A. No. 2187, 2204:

1. Learned Counsel appearing for the applicant makes a statement that presently the ground floor and above which were being used for running a fitness center shall not be used for the said purpose as it is not legally permissible.

2. A usual undertaking to that effect shall be filed by the applicant with the Monitoring Committee within a week. Needless to say, after filing of the usual undertaking, the premises shall be de-sealed.

3. IA No. 2470 stands disposed of accordingly.

I.A. Nos. 2456-2457 in I.A. No. 22:

4. None is present.

5. List these IAs on the next date of hearing.

I.A. No. 2482 in I.A. Nos. 2051-2052

6. The Monitoring Committee is granted two weeks' time for filing its reply. In the meantime, the DDA shall also give its own stand to the Monitoring Committee so

as to enable it to decide about de-sealing the premises in question.

7. List this IA after two weeks.

I.A. Nos. 2489-2490:

8. These are the applications filed by Dr. (Mrs.) Vandana Kumar, Dentist for de-sealing her dental clinic. It is reported that four shops of the permitted categories are permissible and the dental clinic comes within that permissible category.

9. Mr. Ranjit Kumar, learned senior counsel states that if the permission is given to one, the other five persons are likely to follow the suit claiming the de-sealing of their shops also. If that happens, it would be for this Court to judge as to whether the concerned applicant is at the proper place in queue meaning thereby whether premises are among the first four lessees and whether the lease is under the permitted categories. Be that as it may, that is not the question to be decided now. However, we permit the de-sealing of the dental clinic of Dr. (Mrs.) Vandana Kumar on filing of a usual undertaking to be given to the Monitoring Committee within two weeks' from today.

10. IA Nos. 2489-2490 stand disposed of accordingly.

I.A. No. 2366:

11. Mr. V.A. Mohta, learned senior counsel appearing for the applicants seeks time to file further affidavit explaining the whole history regarding the ownership and transfer of the concerned land to the applicants. He shall also file on record the copy of the permission and sanctioned plan etc., if any.

12. Mr. V.B. Saharya, learned Counsel appearing for the DDA shall file an affidavit indicating the names of the responsible officers in whose tenure the so-called illegal construction was carried out. He shall also give the correct Khasra number of the land over which the present construction is carried out.

13. Mr. D.N. Goburdhan, learned Counsel appearing for the National Capital Territory of Delhi shall also file an affidavit indicating the action to be taken for removal of the encroachment having been made on the land of the Government by the construction of this building as also the names of the officials who have failed to take such action at the appropriate time.

14. List after three weeks.

I.A. Nos. 2178-2179 in W.P.(C) No. 4677 of 1985:

15. Applicant is directed to produce the documents with fresh representation to the Monitoring Committee within one week from today suggesting that the entire building which has come up and which was sealed is constructed with due permission and with sanctioned plan.

16. List these I.As. after four weeks.

I.A. Nos. 2159-2160 in I.A. 22 in W.P.(C) No. 4677 of 1985:

17. We have heard learned Counsel appearing for the parties.

18. We find No. merit in these I.As. which are, accordingly, dismissed.

I.A. No. 2493 in I.A. 2484-2485 in W.P.(C) No. 4677 of 1985:

19. We have considered the order dated 10.12.2010 passed by the Monitoring Committee which was passed pursuant to our order dated 18.11.2010.

20. It is an admitted position that in compliance of our aforesaid order, necessary steps have been taken and an undertaking has been filed by the applicant by curing the defects regarding archiving, indexing and cataloguing of photo negatives for digital visual library, digitizing/scanning of annual reports etc. Now the only activity which is being carried out is the documentary film making which is permissible.

21. We have also considered the fact that the objection now taken regarding the FAR was not taken earlier by the Monitoring Committee in its report. Besides, as per the provisions of para 15.8(iv) of the Master Plan of Delhi 2021, even if the FAR is added, such FAR in excess can be permitted to be used subject to payment of appropriate charges prescribed with the approval of the Government.

22. We, therefore, see No. difficulty in de-sealing the premises in question which were sealed on 1.6.2010. The premises shall be de-sealed after an affidavit/undertaking is given by the applicant that on the determination of the appropriate charges of the additional FAR by the New Delhi Municipal Council, the applicant shall pay his share within one month from the date of such demand.

23. IA No. 2493 stands disposed of accordingly.

Contempt Petition(C) No. D1059/2011 in I.A. Nos. 2484-2485 in W.P. (C) No. 4677 of 1985

24. Mr. V.A. Mohta, learned senior counsel appearing for the applicant seeks leave of the Court to withdraw this Contempt Petition. Permission granted. This Contempt Petition is, accordingly, dismissed as withdrawn.

25. List the remaining I.As. on 4.5.2011 at 2 P.M.