

\$~2(SB)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CONT.CAS(C) 851/2021 & CM APPL.8253/2022**

NEERAJ SHARMA ..... Petitioner  
Through: Mr. Aditya N. Prasad, Adv.

versus

VINAY SHEEL SAXENA & ORS. .... Respondents

Through: Mr. A.M. Singhvi with Mr. Jawahar Raja, ASC, GNCTD, Mr. Aman Sharma, Mr. Archit Krishna, Adv. for R-1 to R-3 and Mr. Vinay Sheel Saxena, Mr. Ashutosh, AE and Mr. Jaivir Singh, ADH, SDMC for R-1. Mr. Shadan Farasat, ASC, GNCTD along with Mr. Bharat Gupta and Mr. Aditya Madanpotra, Adv. for R-5. Mr. Rohan Hukil, for Dept. of Forests, GNCTD.

**CORAM:**  
**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**  
% **28.04.2022**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. The learned Senior Advocate for R-1 to R-3 refers to remedial measures taken by R-1 to R-3. This issue shall be considered on the next date, when arguments on the contempt notice will be heard.
2. The learned counsel for the petitioner has drawn the court's attention to an affidavit filed by the Engineer-in-Chief, PWD on 17.05.2013,

before the NGT, wherein the said officer had undertaken on behalf of the PWD that the 46 roads (listed in the annexure to the affidavit) will be promptly re-visited and the 3279 trees noted therein will be de-concretized. Let an affidavit be filed by Engineer-in-Chief, PWD showing that the said 84 trees on Vikas Marg (Road No. 75A & 75B) have been de-concretised. The entire stretch of road shall be video graphed and a copy of the same shall be filed along with the compliance affidavit within two weeks.

3. Mr. Prasad further submits that a tree is cut down every hour in Delhi under official sanction. This is a worrying issue because on the one side endeavour is said to be underway to maintain and augment the green cover of Delhi while simultaneously fully grown trees are allowed to be cut down. This self-defeating exercise by the Forest Department, GNCTD needs to be arrested at the earliest.
4. It will be logical and prudent to transplant fully grown trees instead of cutting them down. Let the department of Deputy Conservator of Forests (DCF) file an affidavit detailing:
  - i) the number of permitted trees to be cut down in the last three years, month-wise and zone-wise;
  - ii) how many trees were transplanted, if any,
  - iii) how many compensatory afforestation have been completed and the status of each compensatory afforestation with photographs.
5. The action to be taken by the Forest Department and/or the Tree Officer apropos the cutting down of each tree finds direction in the order passed in W.P(C) 827/2015 on 25.05.2015.

Let an affidavit be filed in this regard within ten working days.

6. Looking at the nature of this case this court appoints Mr. N. Hariharan, learned Senior Advocate as Amicus Curiae. A copy of the petition be supplied to him in the course of the day.
7. The previous order shows that the Tree Officer has permitted a fully-grown tree to be cut down. It was possibly about 25-30 years age having a girth of roughly 200 cms. It was abutting the road and a private land as seen in the photographs. For some reason, the Tree Officer chose not to see reason in retaining the fully-grown tree, which had been a part of the neighbourhood for decades and added to the ambience and the environment. He has permitted the cutting down of the tree. The Tree Officer will explain whether he inspected the site and assessed the tree before granting permission to cut it. It has to be borne in mind that permission is sought under the Delhi Tree Preservation Act, in which “preservation” of trees is the primary objective. The Tree Officer is repository of public faith and trust, that trees which form an essential part of people’s lives are not allowed to be cut needlessly or wantonly. The statutory duty cast upon the Tree Officer necessarily requires assessment of the necessity to cut a tree for the project for which the permission is sought. A site visit would be prudent. The shortage of Tree-Officers, necessary support staff, cannot be an excuse for granting permission for cutting down trees in the city. The adverse environmental impact of such denudation is all too well-known. Compensatory afforestation if at all carried out, on the fringes of the city, far-removed from the congested areas of human habitation, where the sole decades-old-tree once stood as a

carbon-sump-cum-fresh oxygen generator-cum-shade provider-cum-visual respite from the ever increasing concretization; the geographically distant and nascent compensatory plantation can hardly be of any respite or actual compensation. In any case, it will take decades for the compensatory forests to be of any reckonable benefit. In this capital city with its ever-bourgeoning populating, the cacophony of voices and rampant commercialization of every other street – robbing the residents of the familiar ambience of their residential neighbourhood, the ever-increasing motor-vehicular traffic, the choking air-pollution and the ever-creeping concretization, trees hold out as welcome and assuring living entities of hope, sanity, environmental redemption and even companionship. The more solitary the tree, the greater its significance. Therefore, the responsibility of protecting and nurturing the solitary tree is far-greater upon the Tree Officer and the authorities concerned. Photographs of remnants of the cut tree are reproduced hereunder:









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.
9. The Tree Officer, concerned, shall be present in court on the next date.
10. Renotify on 05.05.2022.

**NAJMI WAZIRI, J**

**APRIL 28, 2022***/dss/rd*