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

+ CONT.CAS(C) 851/2021, CM APPL. 8253/2022, CM APPL. 21573/2022, CM APPL. 29368/2022 & CM APPL. 29369/2022

NEERAJ SHARMA

..... Petitioner

Through: Mr. Aditya N. Prasad, Advocate.

versus

VINAY SHEEL SAXENA & ORS.

..... Respondents

Through: Mr. Kirti Uppal and Mr. Rakesh Tiku, Sr. Advocates with Mr. Javed Ahmed, Mr. Harmeet Singh Gulati and Mr. Lokesh Bhardwaj, Advocates for R-1 to R-3.

Mr. Sanjay Mishhra, Ms. Stuti Mishra and Ms. Shelly Chauhan, Advocates for R-4 with R-4 in person.

Mr. Rishikesh Kumar, ASC GNCTD with Ms. Sheenu Priya and Mr. Muhammad Zaid, Advocates for Delhi Police.

Mr. Unmukt Gera, Advocate for Mr. Gautam Nayaran, ASC GNCTD.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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21.07.2022

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

1. It has been pointed out to the court by the learned counsel for the petitioner that although sentencing of R-2 and R-3 to two months' imprisonment along with fine of Rs.2,000/- each, was dictated in open

court, however, the same has not been typed in the order dated 13.07.2022. It is agreed by the parties that indeed the said sentence, was so dictated.

2. Accordingly, the last sentence of paragraph 7 of the order dated 13.07.2022 shall read as under:

“R-2 and R-3 are, therefore, sentenced to simple imprisonment of two months along with fine of Rs.2,000/- each”

3. Encouraging photographs have been shown of plantation of 547 trees of various varieties, as per Annexure-A-1 of the Status Report filed by R-1/Contemnor. The court is informed that 60 trees have been planted in the land opposite of the Supreme Court near the underground loop. However, photographs shared by the learned counsel for the petitioner show that this land has many layers of concrete and bitumen, therefore the trees planted there may not survive or otherwise grow freely as they would in earth free of constrictive concrete. Let this issue be examined by the DCF along with the assistance of Mr. S. Chellaiah, Director Horticulture, NDMC, whom the respondents will request for assistance. Should it be required to remove the concrete from the earth where the trees have been planted, the respondents/ PWD shall do so. The requisite and suitable trees shall be planted again.
4. The court is informed that along the Mathura Road and near the Blind School/ Lodhi Road Fly Over, a number of trees have been planted. The respondents assure of their regular care for six months. Temporary/ semi-permanent fencing will be put up around the trees,

wherever necessary to protect them from any damage. The footpaths shall be put in order so that citizens are not deprived from using the same. An affidavit in this regard shall be filed by the respondents/contemnors before the next date, along with the report of plantation of the remaining 300 trees.

5. The plantation has been carried out as indicated in the chart and as well as per the map annexed to the Status Report (Annexures A-1 and A-2). The same are reproduced hereunder:-

Details of Plantation of Trees

Sl No.	Location	Name of Trees	No. of trees	Height of trees (approx.)	Status of plantation
1	Supreme Court	Pilkhan	60	15-20	Planted
2	Near FOB(Supreme Court)	Pilkhan	35	10-15	
3	Sunder Nagar	Pilkhan	60	15-20	
4	DPS to Sabj Burj (in CV)	Alestonia	14	10-15	
5	Sabj Burj to Bhogal	Tota	20	10-15	
		Firoj Rajni	52	10-15	
		Peepal	4	10-15	
6	Sabj Burj to Lodhi Fly.	Alestonia	29	10-15	
		Peepal	37	10-15	
		Firoj Rajni	14	10-15	
		Bargad	21	10-15	
		Kadam	12	10-15	
7	BP Marg (Lodhi Road)	Pilkhan	31	10-15	
		Peepal	11	10-15	
		Gulmohar	6	10-15	
8	Lodhi Road (IHC to BP marg)	Pilkhan	16	10-15	
		Burgad	44	10-15	
9	Mohan Co-operative, Mathura Road	Peepal	26	10-15	
10	Jamia University to Julena	Pilkhan	55	10-15	
11	Ashram to Mohan co-operative	Tota	300	10-15	
		Alestonia		10-15	
		Pilkhan		10-15	
		Total	847		

6. The freed-up of land opposite the Supreme Court is stated to be 6,000 meters and in possession of PWD. Presently only 60 trees have been planted in it. There is scope for more plantation which can be done from the balance 300 trees, as noted hereinabove. In the previous order, it has been noted that an affidavit was filed in the Supreme Court to the effect that the area abutting Mathura Road is a deemed forest. In the circumstances, for the moment it would be prudent to protect the said land by green-net etc., for two purposes: (i) to protect the newly planted trees and: (ii) to secure the area from encroachment. Since the land has already been notified as 'deemed forest', the Forest Department, GNCTD will be intimated of its location. Both PWD and the Forest Department could initiate steps for its maintenance as per rules. Since this area is in the heart of the city, the Forest Department may consider exploring the possibility of planting in it Amaltas trees (*Indica Laburnum*) so that when in bloom, they could lend cheer to every passer-by.
7. The contemnors and the PWD shall ensure that the trees planted by them are in accordance with the planned development and/or of the variety which have historically lined the avenues. Wherever incongruity has occurred because of the recent plantations, the same shall be rectified. Expert opinion in this regard may be sought. This exercise shall be carried out within a week. Videography and extensive photographs of the entire area where plantations have been carried out shall be filed. Each tree shall be numbered. The contemnors and the PWD shall care for the trees at

least for the next six months. The spot of plantation shall be such that it leaves ample space for users of the footpaths, especially for the wheel-chair bound. Requisite space around the tree trunks shall be maintained so as to ensure their survival and longevity. Each of the planted tree shall be numbered and a Census shall be maintained by the PWD and the Forest Department, GNCTD.

8. In view of the above, the sentence shall be kept in abeyance till the next date.
9. Renotify on 05.08.2022.
10. Interim orders in terms of order dated 19.05.2022 apropos felling of trees shall continue.

NAJMI WAZIRI, J

JULY 21, 2022

rd/ss