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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. Javed Ahmad and Ms. Aakriti Aditya, Advocates for R-1 to R-3 with R-1 in person.

Mr. Sanjay Mishra and Mr. Kartikey Mittal, Advocates for R-4.

Mr. Shadan Farasat, ASC for GNCTD.

Mr. Gautam Narayan, ASC for GNCTD.

Mr. Naved Ahmed and Mr. Vivek Kumar, Advocates for Mr. Avishkar Singhvi, Advocate for PWD.

Ms. Punya Rekha Angara, Advocate for Mr. N. Hariharan, Sr. Advocate (*Amicus Curiae*).

**CORAM:**

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

**ORDER**

% **03.02.2023**

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

1. The learned counsel for the petitioner has filed photographs showing that the patches of lands where trees were planted by the contemnors

who are or have been officers of the Public Works Department ('PWD') GNCTD, under the directions of this court, largely as remedial measures to mitigate the damage caused to the trees under the watch of said Contemnors. Now the court is informed that PWD has gone ahead and laid concrete path bounded by SFRC railing, and have possibly removed/damaged rows of the 12' to 14' tall trees planted in the past six months. This would *ex-facie*, constitute a further contempt of court in these contempt proceedings. Contemnor No. 1 states that this work has not been carried out by him but by some other Executive Engineer possibly of the ITPO Division, PWD.

2. The lack of coordination in the same Department, resulting in scant regard of the court's order is evident. Let the Engineer-in-chief, PWD, be present in court on the next date with an explanation apropos the same. The issue will be discussed by him with the Secretary, PWD. The photographs are as under:

**BEFORE**



**AFTER**



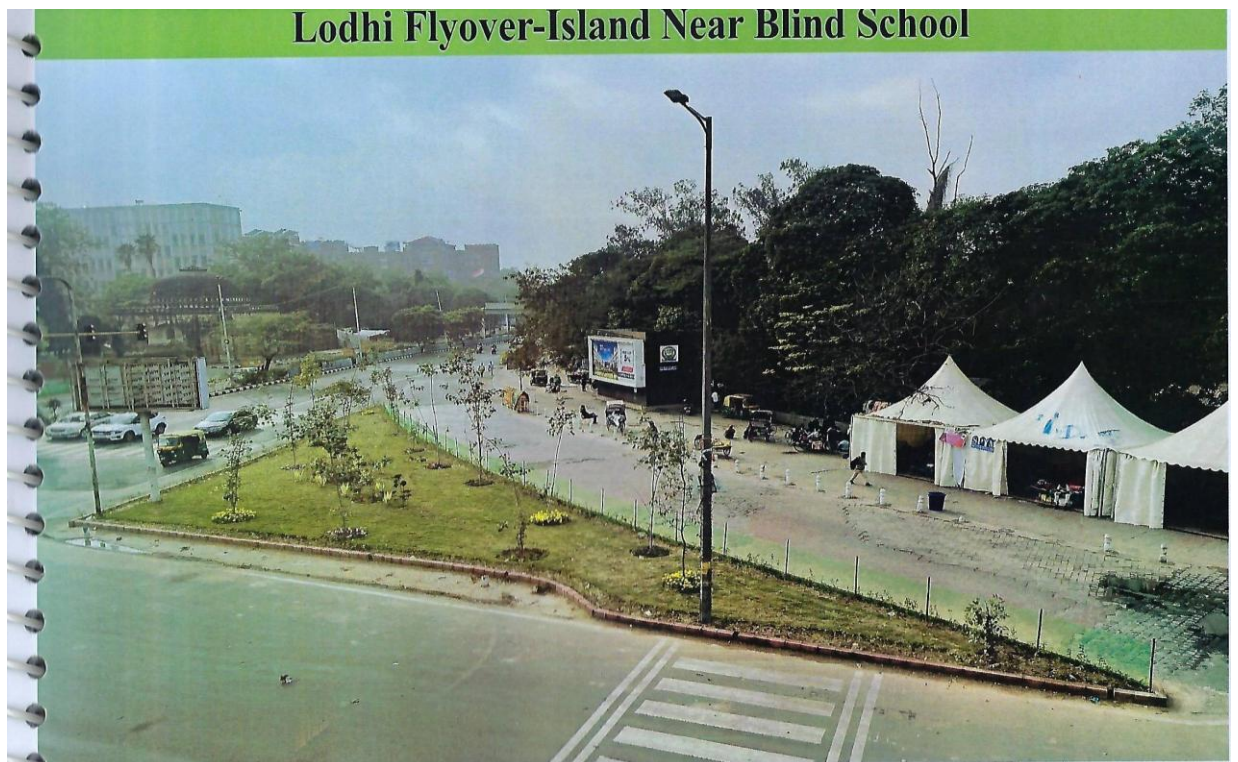


**BEFORE**

**AFTER**



3. In any case, as has been recorded in the previous orders, the entire stretch of Mathura Road is deemed forest and on both sides of the carriageway no concretization could have taken place except with prior permission. Let the Tree Officer file his response apropos this issue.
4. Photographs have been shown to the court by Contemnor No.1 showing happy state of affairs on account of considerable steps taken by Contemnor Nos. 1, 2 and 3 towards remedial measures for greening the tree traffic islands along the Lodhi Road Flyover. Let the same be brought on record. Their work is appreciated. Photographs of the same are reproduced as under:

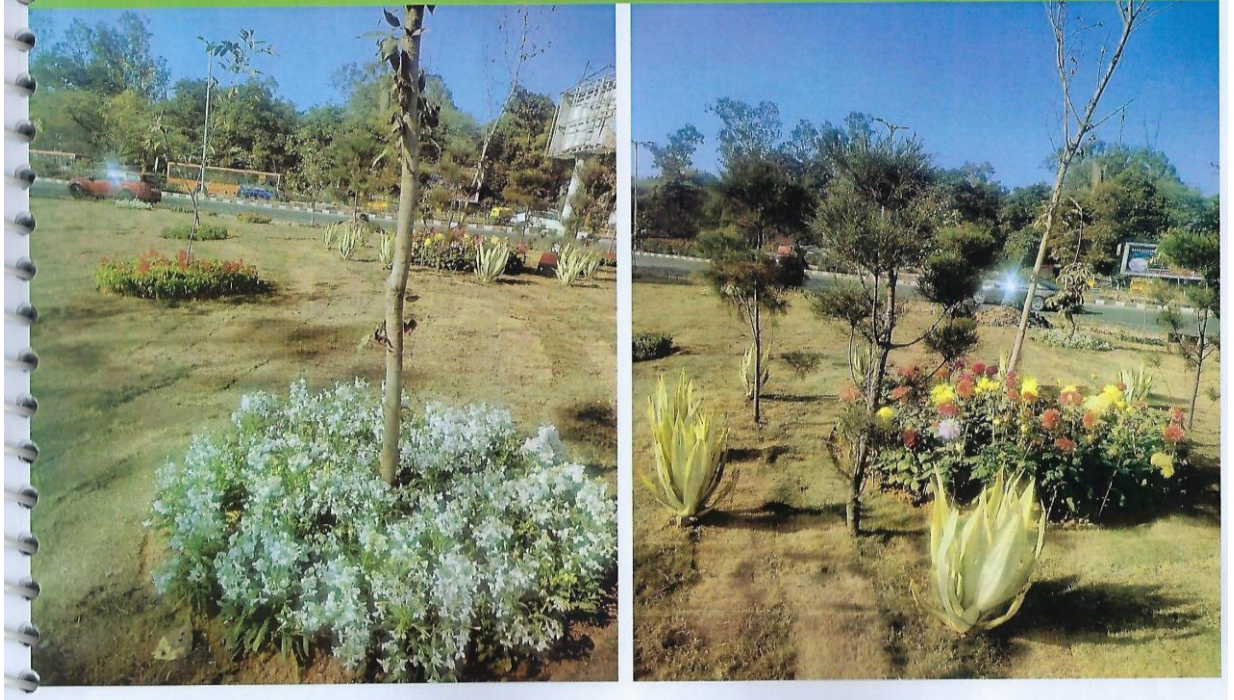




**Lodhi Flyover-Island Near Blind School**

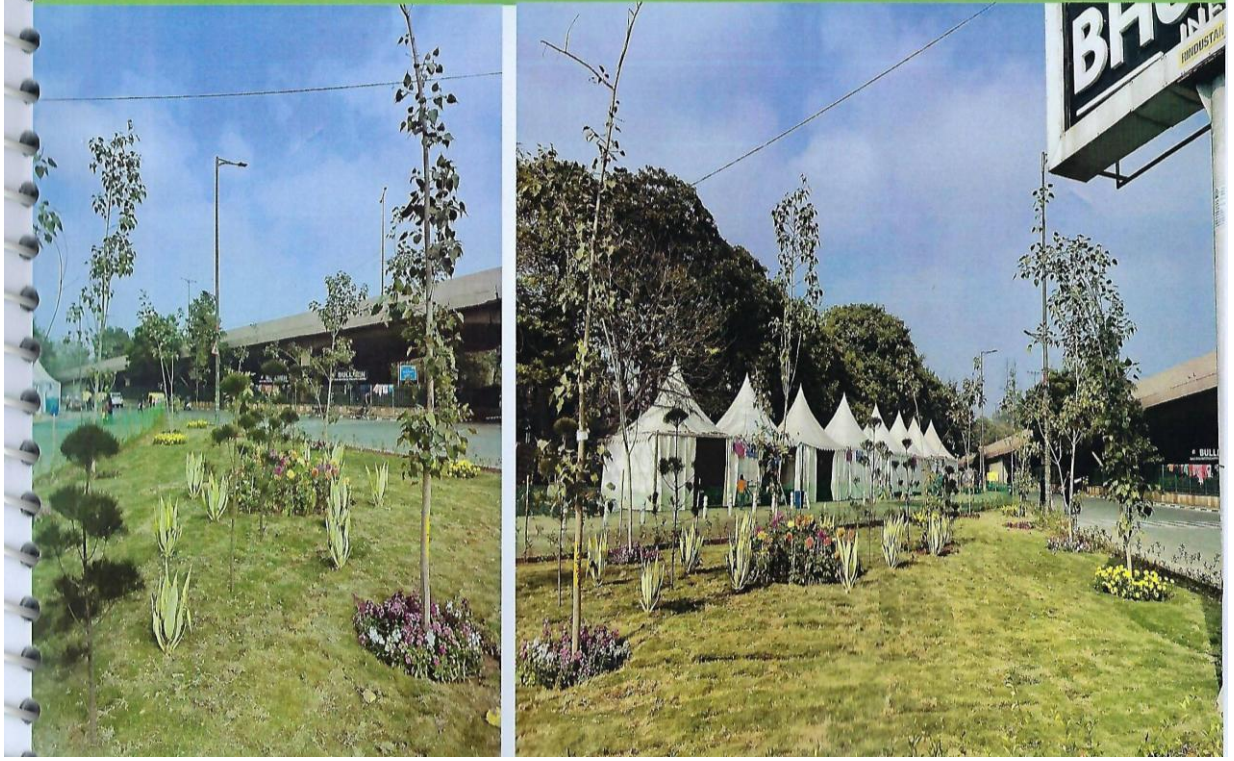


**Lodhi Flyover-Island Near Blind School**





### Lodhi Flyover-Island Near Blind School



### Lodhi Flyover-Island Near Church

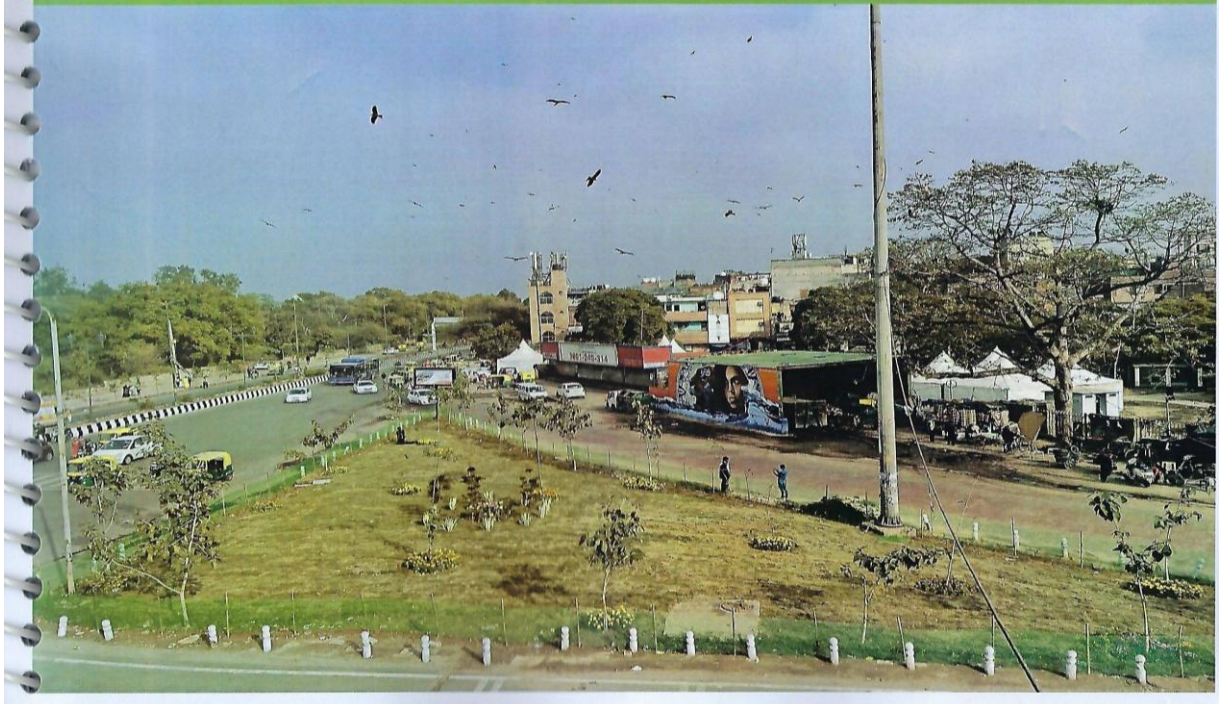




**Lodhi Flyover-Island Near Church**



**Lodhi Flyover-Island Near Kudadan**







5. The court is assured that remedial measures apropos trees incongruous with the variety of trees historically planted along Lodhi Road shall be taken within two weeks. The respondents shall ensure that due permanent signage is put up at all the sites where plantations have been carried out in this petition to say that *‘this is a voluntary exercise in expiation of wrongs done towards the city in CONT.CAS(C) 851/2021, under the orders of the High Court of Delhi’*.
6. At this stage, the learned counsel for the petitioner has drawn the court’s attention to a computation made, on the basis of the information provided by the Forest Department, it shows that every hour five trees are cut down in Delhi with prior permission of the Tree Officer. Remedying the harm and loss of tree-cover would possibly

take another 20 years for each fully grown tree which is felled. The said computation is reproduced as under:

“ ...

**III. AFFIDAVIT DATED 23.08.2022 (CATEGORY 3, 4 AND 6)**

<i>Entry</i>	<i>CATEGORY</i>	<i>TREES FELLED</i>
3	<i>Illegal tree felling for which Cognizance taken under section 8 of the DPTA</i>	8774
4	<i>Trees Felled under Forest Clearance (Diversion of forest/ deemed forest land)</i>	40144
6	<i>Trees falling in Storm etc or felled after being termed as dangerous, (to be reported u/s 8 r/w the Rules):</i>	
	<i>Trees felled without permission or Trees tailing in storm and were reported within 24 hours under Section 8 of the DPTA</i>	124
	<i>Tree which were termed 'dangerous' and felled with permission under section 8 of the DPTA</i>	2040
	<i>Tree felling under Section 9 (discrepancy with Affidavit dated 18.05.2022)</i>	4615
	<i>Total</i>	55697

**Previous Data**

*Therefore, with the available data the total number of trees allowed to be felled under official sanction for the years 2019, 2020 and 2021 are:- 29946 + 47474 = 77,420 Trees.*

*77420 Trees/3 years = 25806.666 Trees/year  
 25806.666 Trees/365 days = 70.70/day  
 70.70 Trees/24 hrs = 2.9 Trees/hr = 3 Trees/hr (in the past 3 years i.e. 2019-2021)*



**Updated data with Affidavit dated 23.08.2022**

*Total number of trees allowed to be felled under official sanction for the years 2019, 2020 and 2021 under all categories (except category 5) are :- 29946 + 47474 + 55697= 1,33,117 Trees.*

*133117 Trees/3 years = 44372.33 Trees/year*

*44372.33 Trees/365 days = 121.56/day*

*121.56 Trees/24 hrs = 2.9 Trees/hr = 5.065 Trees/hr (2019-2021)”*

7. This loss to the city can never be regarded lightly. It is alarming and disheartening to see that the figures are now twice the number that was recorded by the court on 13.07.2022 when it was observed as under:

“ ...

*3. It appears that the project was sought to be executed without any ostensible concern for the green cover, in a city which gasps for fresh air every moment. If there was such concern and caution envisaged in the project, then it should have been duly implemented, without breaching the court directions. In the order dated 11.07.2022 it has been noted that 77,420 trees were permitted to be cut-down/felled in the years 2019, 2020 and 2021 through applications under sections 9 and 29 of the Delhi Preservation of Trees Act, 1994 (“DPT Act”). If the average age of each tree was 20 years, then Delhi has lost 1,54,000 years of treelife because of the permitted tree-felling. The other data, as noted in para 3 of the previous order is presently not on record. When furnished it would likely increase the loss manifold. Each felled tree only aggravates the ever increasing air and noise pollution. Government projects would necessarily be required to keep these environmental issues into consideration. No amount of concretescaping can replace the loss of or damage to the green cover.*

... ”

8. In view of the large number of trees felled with permission, let alone those felled without due permission, the Forest Department and all agencies concerned need to take urgent measures to ensure that the city is not denuded entirely of its green cover. Let the respondents file an expedited action plan within a fortnight, so that the same could be implemented in right earnest.
9. The learned counsel for the petitioner further draws the court's attention to the directions given by Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India and Others*, 2021 SCC OnLine SC 1147 dated 29.11.2021, which reads as under:

“ ...

*31. Projects such as the metro railway in question have already been implemented in parts of NCT of Delhi/NCR. One cannot lose sight of the fact that it has resulted in loss of vegetation as well as flora and fauna in certain areas. The implementation of Phase IV of MRTS Project may be a further threat to the ecology of NCT of Delhi/NCR.*

*32. To meaningfully arrest the problem of declining tree cover, the civil society must also be placed with the responsibility to carry out reforestation activities. While we cannot ignore the importance of governmental responsibility in materializing the goals of sustainable development through reforestation, we strongly endorse the idea of collective responsibility towards ensuring a sustainable future. The engagement, inclusion and participation of citizens and perhaps more significantly, the ownership of the sustainable development agenda by empowered citizens and community-level actors will contribute in a significant manner to achieving the economic, social and environmental pillars of the sustainable development agenda.*



*33. Citizens, as the ultimate beneficiaries of development, have a critical role to play, not just in terms of effort and action towards the achievement of the environmental goals but also in terms of the associated monitoring of the progress towards these goals.*

...

*47(ix) Irrespective of and de hors the decision to be taken by the concerned departments with regard to the recommendations made by the CEC in the aforesaid Report Nos. 8 and 10, since the citizens of NCT of Delhi have had and would continue to have the facility of the metro rail, the GNCTD as well as DMRC are directed to conceive a plan of action for the purpose of planting trees in the NCT of Delhi. For that purpose, GNCTD may involve school and college students, educational institutions, Non-Governmental Organizations, Citizen Welfare Associations, public servants and every citizen or person who is interested in the ecology of NCT of Delhi to plant trees/saplings and ensure that they are nurtured and protected so that the NCT of Delhi would in passage of time have more greenery leading to afforestation. The aforesaid direction is issued having regard to the precautionary principle as well as principle of sustainable development by ensuring citizens' participation in the preservation of the environment and ecology. It is needless to observe that such a plan of action would be conceived by the Department of Forest and Environment of NCT of Delhi in consultation with the Public Works Department, Education Department and such other departments who will involve themselves in ensuring the planting of saplings and trees in NCT of Delhi. Such a plan of action be conceived and the same be placed on record before this Court within a period of twelve weeks for consideration of this Court."*

10. The proposed expedited action plan shall be approved by the Chief Secretary, GNCTD, and thereafter be placed before the court on the

next date.

11. A compilation of the 100 most suitable trees for Delhi (NCR) authored by Mr. Pradip Kishen, Environmentalist, has been handed over to the learned counsel for DCF. Let the same be considered by the Forest Department.

12.Re-notify on 09.02.2023.

**NAJMI WAZIRI, J**

**FEBRUARY 3, 2023**

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