

ITEM NO.302

COURT NO.13

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO.12213/2019

[Arising out of the Impugned Final Judgment and Order dated 20-02-2019 in WP(C) No.4099/2018 passed by the High Court of Delhi at New Delhi]

RAJEEV SURI

PETITIONER

VERSUS

ARCHAEOLOGICAL SURVEY OF INDIA & ORS.

RESPONDENTS

IA No.110092/2025 - PERMISSION TO FILE APPLICATION FOR DIRECTION

DATE : 13-04-2026 This matter was taken up today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

[Mr. Gopal Sankaranarayanan (Sr. Adv.), Court Commissioner, with Ms. Astha Sharma, AoR and Mr. Vishal Sinha, Adv.]

[SPECIAL BENCH]

For Petitioner: Mr. Shikhil Shiv Suri, Sr. Adv.
Mrs. Madhu Suri, Adv.
Ms. Jyoti Suri, Adv.
Ms. Wamika Chadha, Adv.
Mr. Vibhor Choudhary, Adv.
Mr. Deva Vrat Anand, Adv.
Mr. T. R. B. Sivakumar, AoR

For Respondents: Mr. Amrish Kumar, AoR

Mr. Satya Darshi Sanjay, A.S.G.
Mr. Sudarshan Lamba, AoR
Mr. Siddhant Kohli, Adv.
Mr. Raman Yadav, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Mrigank Pathak, Adv.
Mr. Sarthak Karol, Adv.
Mr. Khushal Kolwar, Adv.
Mr. Divyam Aggarwal, Adv.
Mr. Shubham Prakash Mishra, Adv.
Mr. Akshat Agrawal, Adv.

Mr. Udai Khanna, Adv.
Ms. Shivika Mehra, Adv.

Ms. Sunita Sharma, Adv.
Mr. B. L. N. Shivani, Adv.
Ms. Satvika Thakur, Adv.
Mr. Mohan Prasad Gupta, Adv.
Mr. Santosh Ramdurg, Adv.
Mr. Yogesh Vats, Adv.
Mr. Shreekant Neelappa Terdal, AoR

Mr. Raj Bahadur Yadav, AoR

Mr. Rakesh Sinha, Adv.
Mr. Arvind Gupta, AoR
Mr. Md. Ghulam Akbar, Adv.
Mr. Jeemon Raju K, Adv.
Mrs. Binita Jaiswal, Adv.

Mr. Shubhranshu Padhi, AoR

Ms. Swati Ghildiyal, AoR
Mr. Rishi Yadav, Adv.

Mr. Rajkumar Bhaskar Thakare, A.S.G.
Mr. Mukesh Kumar Maroria, AoR
Mr. Prasenjeet Mohapatra, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Ms. Neelakshi Bhadauria, Adv.
Mr. Rishikesh Haridas, Adv.
Mr. Ishaan Sharma, Adv.

Mr. S.D. Sanjay, A.S.G.
Mr. Praveen Swarup, AoR
Mr. Devesh Maurya, Adv.
Mr. Rohit Swarup, Adv.
Mr. Yunus Malik, Adv.
Mr. Pooja, Adv.
Mr. PR Abhimanyu Karthikeya Raja, Adv.
Ms. Ashu Tomar, Adv.

Mr. Nitin Mishra, AoR

Mr. Udit Dedhiya, Adv.
Mr. V. N. Raghupathy, AoR
Ms. Apurva Sachdev, Adv.
Mr. Venkata Raghu Mannepalli, Adv.
Mr. Ramprasad H. Alva B., Adv.
Mr. Dillip Kumar Mohanty, Adv.

Mr. Shashank Bajpai, Adv.
Mr. Ankur Mishra, Adv.

Mr. Gurpreet Singh, Adv.
 Mr. Nitish Dham, Adv.
 Ms. Vidula Mehrotra, AoR
 Mr. Gopi Chand, Adv.
 Mr. Vatsal Tripathi, Adv.
 Mr. Govind Singh, Adv.
 Mr. Akshit Saxena, Adv.
 Mr. Vaishnavstuti, Adv.

O R D E R

This case concerns the protection of monuments, a duty placed upon the Executive, but which has travelled up to this Court.

2. Mr. Gopal Sankaranarayanan, learned Court Commissioner has handed over a summary of the Status Reports filed by various authorities, which is reproduced hereunder:

Sl. No.	Agency	Number of Sites	Conservation Status
1.	ASI ¹	170 [3 _____ Monuments de-notified] (Bara Khamba Cemetery, Inchla Wali Gumti, Nicholson Statute)	<p style="text-align: center;">Good: 137</p> <p>[Sl. 1, 3-17, 19-20, 22-23, 25-29, 32, 34-56, 58-64, 66-73, 75, 79-80, 86-89, 92, 94-96, 99-109, 111-133, 135, 139-156, 158, 160-162, 164-165, 167, 169-170]</p> <p style="text-align: center;">Satisfactory / Requires some repair: 19</p> <p>[Sl. 21, 24, 30, 33, 74, 76-78, 81-85, 90, 93, 98, 134, 166, 168]</p> <p style="text-align: center;">Poor: 3</p> <p>[Sl. 57 (Gates and walls of Mubarakpur, Kotla), 157 (Joga Bai Mound), 159 (Ancient</p>

¹ Archaeological Survey of India.

			<p>Mosque)]</p> <p>No details: 2 [Sl. 136, 138]</p> <p>Not traceable: 9 [Sl. 2, 18, 31, 65, 91, 97, 110, 137, 163]</p>
2.	DoA, GNCTD ²	20	<p>Good: 10 [Sl. No. 1-10]</p> <p>Satisfactory: 6 [Sl. 11-16]</p> <p>Steps Due: 3 [Sl. 17 (Sarai of Azimganj), 18 (Tomb), 19 (Tomb)]</p> <p>Ongoing: 1 [Gumti of Shaikh Ali]</p>
3.	MCD	87	<p>Good: 50 [Sl. 1-6, 8-17, 22, 25-28, 31-45, 47-49, 51, 54, 60, 71, 78-83, 87]</p> <p>Satisfactory / Requires some repair: 14 [Sl. 19, Sl. 29-30, Sl. 55- 56, 57, 59, 61-65, 69-70]</p> <p>Poor: 7 [Sl. 20 (Town Hall), 21 (Company Bagh), 46 (Cemetery), 58 (Domed buidling), 66-68 (Tombs)]</p> <p>Deplorable condition/No Conservation: 3 [Sl. 7 (Gateway of Zinat Mahal), Sl. 23 (Mughal</p>

² Department of Archaeology, Government of National Capital Territory of Delhi.

			<p>Tank), 24 (Tank)]</p> <p>Not traceable: 2 [Sl. 50 (Tomb), Sl. 72 (Baoli)]</p> <p>No details: 11 [Sl. 18, 84-86 (Pertaining to ASI), 52-53, 73-74, 76-77 (Pertaining to DoA, GNCTD) 75 (Pertaining to Waqf Board)]</p>
4.	NDMC ³	<p>52 <u>Details given for 41 out of 52</u></p> <ul style="list-style-type: none"> • 2 with NDMC • 19 with ASI <u>Details for 4 not given as per affidavit</u> • 14 with CPWD <u>Details for 2 not given as per affidavit but details for 19 given; photos of only 5 given</u> • 2 with DoA, GNCTD • 8 with Delhi Golf club • 2 with Diocese of North Delhi • <u>Ownership not ascertained for 4</u> • <u>No details about 1 site</u> 	<p>Good: 18 [NDMC: Sl. 1, 2 ASI: Sl. No. 3-7, 9, 10, 12-16 DGC: Sl. 1-2, 8 DND: Sl. 1]</p> <p>Work due: 5 [ASI: Sl. 1, 2, 8, 11 DND: Sl. 2]</p> <p>Not conserved: 6 [DoA: Sl. 1 (Turret) Delhi Golf Club: Sl. 3-7 Others: Mosque, Hailey Road; Tomb, National Stadium]</p> <p>Sufficient details missing: CPWD⁴: All entries DoA: Sl. 2 (Bhuli Bhatiyari ka mahal)</p>

³ New Delhi Municipal Council.

⁴ Central Public Works Department.

3. The Court has deliberated the matter in-depth with the respondents, as also Mr. S.D. Sanjay, learned Additional Solicitor General⁵, appearing for the Ministry of Housing and Urban Affairs and the ASI. Learned counsel for the other respondents have also been heard. Learned senior counsel for the petitioner, the petitioner himself and Dr. Swapna Liddle have also addressed us.

4. Dr. Swapna Liddle has graciously given certain suggestions, which, to our mind, are very practical, realistic and need to be implemented immediately. To make the exercise more focussed, we request her to provide this Court with five basic issues which need to be, and can be, addressed immediately, in the background of what has been placed on record in the affidavits of various authorities, to begin with. We request her to do so within two weeks. She may file the same herself or through any Advocate-on-Record of her choice. Registry shall accept such filing as is.

5. With regard to Item No.19 in ASI's List (walls of the old City of Tughlaqabad), it is stated that there are encroachments within the same, which on the one hand have not been removed, and on the other hand, there is rampant increase, both horizontally and laterally, of the said encroachments. This indicates that the area is open to encroachment by various land *mafia*, surprisingly right under the nose of the authorities. It transpires that the High Court of Delhi is looking into the matter in W.P. (Civil) No.1475/2001, titled '*S N Bhardwaj v Archaeological Survey of*

⁵ 'ASG'.

India' with other connected cases. In the said proceedings, on 24.09.2025 [2025 SCC OnLine Del 6319], a learned Division Bench of that High Court constituted a Committee, comprising the following, for *'deliberations and appropriate decision'* apropos *'survey of the area and devise a joint policy decision not only for removal of illegal encroachments and constructions but also to rehabilitate those who may be required to be uprooted and displaced'* :

1. Secretary, Department of Housing and Urban Affairs, Government of India - Chairman;
2. Director General, Archaeological Survey of India - Member;
3. Secretary, Department of Housing and Urban Development, GNCTD - Member;
4. Commissioner, Municipal Corporation of Delhi - Member;
5. Commissioner, Delhi Police - Member;
6. Vice Chairman, Delhi Development Authority - Member;
7. Divisional Commissioner, Revenue Department, GNCTD - Member; and
8. Any other person/Officer/Body which the Committee deems fit may be co-opted.

6. Following up, in the High Court's subsequent Order dated 18.03.2026, at Paragraph No.4 it was indicated to the Committee that *'rules for finalizing the agency to conduct the survey at the site has been received'*, but the necessary order was yet to be issued and assurance was given by the Director-General, ASI to the said Committee that survey of the Fort area would be completed

within a period of two to three months. It appears that the agency, proposed to be finalised, is a private concern. The tendering process, we are informed, has already proceeded and only the final step viz. issuance of Work Order remains to be issued. We hereby direct that the Work Order shall not be issued. We are of the firm opinion that the survey of the nature contemplated being assigned to a private concern, appears to be absolutely unjustified. The departments/agencies of the Government, Central or State, or of the National Capital Territory, as the case may be, cannot abdicate their responsibilities and outsource matters such as the survey which can be and ought to be done in-house. A departmental organization like the ASI, which has a battery of professionals, be it, engineers, architects and otherwise, has to conduct the survey on its own wherewithal. Assistance, if at all needed, can be taken of governmental institutions. The same be done. In this connection, the Committee formed by the High Court shall also involve the Indian Institute of Technology, Delhi⁶ and the School of Planning and Architecture, Delhi⁷. The Directors of both these institutions shall constitute a team which will work in tandem with the officers of the Departmental heads, who form part of the Committee. As has been directed in the Order dated 18.03.2026 *supra*, the Commissioner of Police, Delhi, shall ensure that the team is protected. The team shall submit a report to the Committee, which shall be placed alongwith comments/remarks of the

⁶ 'IIT-D'.

⁷ 'SPA'.

Committee before the High Court on the next date fixed, which is 01.07.2026. We only request the High Court to take up the matter on priority and ensure that whatever directions are called for, are issued at the earliest.

7. We also add that the survey shall indicate and demarcate the exact nature of the existing structures and the extent of such structures. Detailed and comprehensive photography with time/date-stamping shall be done to ensure that even in existing structures additions are not made later. If any discrepancy/incorrect facts come to light in the Report (with the Committee's comments, as noted above), the Members of the Committee and the team constituted shall be personally liable in that respect. Similarly, it shall be the duty of the concerned Deputy Commissioner of Police⁸ and the Station House Officer⁹ to ensure that there is no addition to any existing structure or any further encroachment of any kind whatsoever, with immediate effect. If any violation/construction/encroachment is found to have taken place, from this moment onwards, the DCP and SHO shall be personally responsible for the same. The High Court is requested to closely monitor the same.

8. With a view to clarify the position, we may note that our directions were necessitated, *inter alia*, as the issue before the High Court was initially being monitored by this Court, and under Judgment dated 04.02.2016 in Civil Appeal No.699/2005 [(2016) 3

⁸ DCP.

⁹ SHO.

SCC 691], this Court observed and directed:

'11) On the basis of events narrated above, the position that emerges is the following:

(a) Tughlakabad Fort is a protected monument and this Court has held in these proceedings that protection and preservation of the said monument is imperative.

(d) Repeated orders are passed to the effect that there would not be any further construction in the protected monument i.e. Tughlakabad Fort. The effect of the said orders is that ASI is to take an action for removal of unauthorized construction as also the encroachers from the public land. There are even orders passed by this Court that for carrying out this direction, ASI is to be provided with necessary police protection as well as any other cooperation that is needed from the National Capital Territory of Delhi or any other authority.

12) Since effective orders have already been passed to this effect and the matter now only needs to be monitored to ensure that these orders are implemented in letter and spirit by taking effective steps and action in the matter, we are of the opinion that further monitoring of the cases can be done by the High Court of Delhi from where these proceedings originated.'

(emphasis supplied)

9. Thus, to strengthen the hands of the High Court and to ensure that the authorities discharge the duties cast upon them, we have considered it fit to make certain re-arrangements about the manner and modality of the survey to be conducted.

10. On a concern raised by Mr. S.D. Sanjay, learned ASG, we direct that the Directors of IIT-D and SPA shall ensure that a team is set up in terms *supra* and their services are made available to the Committee at the earliest. Further, we grant liberty to co-opt personnel from any other field to aid and assist

in the exercise assigned. However, they shall also be drawn from Government Organisations/instrumentalities of the State. We further make it clear that all expenses to be incurred by this team shall be borne, for the present, by the Ministry of Housing and Urban Affairs, Government of India. Time spent in doing the work assigned shall be treated as time spent on full-time duty by the members of the team.

11. Registry shall forward a copy of this Order to the Registrar General, High Court of Delhi, forthwith, for being placed in the records of W.P. (C) 1475/2001 and the concerned Division Bench.

12. Let the Committee also communicate this Order to the Directors, IIT-D and SPA.

13. As requested by the learned Court Commissioner, Ms. Astha Sharma, learned Advocate-on-Record and Mr. Nikunj Saxena, Advocate, shall assist him *qua* the responsibility entrusted to him by our Order(s).

14. We accept the unconditional apology tendered by Mr. Yadubir Singh Rawat, the Director-General, ASI, who was directed to appear for not filing the affidavit as directed by this Court. His personal appearance is hereby dispensed with, for the present.

15. By the next date, specific affidavit(s) with regard to all the issues identified today shall be filed by the parties. The said affidavit(s) shall also disclose the proposed plan of action, with specific time-frames, relating to all the monuments individually, which have been described in the affidavits already

filed, in brief.

16. Due to paucity of time, this Court was unable to hear the official respondents individually, which will be done on the next date.

17. Accordingly, list on 04.05.2026 at 3.30 PM.

(POOJA SHARMA)
AR-CUM-PS

(ANJALI PANWAR)
ASSISTANT REGISTRAR