

2023 LiveLaw (SC) 82

IN THE SUPREME COURT OF INDIA
SANJAY KISHAN KAUL; J., ABHAY S. OKA; J., J.B. PARDIWALA; J.
Writ Petition(s)(Civil) No(s). 13381/1984; 17-01-2023
M.C. MEHTA versus UNION OF INDIA & ORS.

Taj Trapezium matter - Supreme Court permits increase in air traffic in Agra-removes the restriction imposed in 2019 for increasing flights.

Mr. A.D.N. Rao, Sr. Advocate (A.C.), Counsel for parties:Ms. Aishwarya Bhati, A.S.G. Mr. V. K. Shukla, Sr. Adv. Mr. Rajeev Kumar Dubey, Adv. Mr. Chandrika Prasad Mishra, Adv. Mr. Siddharth Krishna Dwivedi, Adv. Mr. Nitin Pavuluri, Adv. Mr. Ashiwan Mishra, Adv. Mr. Kamendra Mishra, AOR Mr. ANS Nadkarni, Sr. Adv. Mr. Ravi Prakash Mehrotra, Sr. Adv. Ms. Ruchira Gupta, Adv. Ms. Nancy Shah, Adv. Mr. Apoorv Srivastava, Adv. Mr. Jogy Scaria, AOR Mrs. Rachna Gupta, AOR Mr. Nischal Kumar Neeraj, AOR Mr. ANS Nadkarni, Sr. Adv. Mr. Ravi Prakash Mehrotra, Sr. Adv. Ms. Ruchira Gupta, Adv. Ms. Nancy Shah, Adv. Mr. Apoorv Srivastava, Adv. Mr. Jogy Scaria, AOR Mr. V.K. Singh, Sr. Adv.Mr. Hitesh Kumar Sharma, Adv.Mr. Akhileshwar Jha, Adv.Ms. Yamini Sharma, Adv.Ms. Niharika Dwivedi, Adv.Ms. Shweta Sand, Adv.Mr. Ravish Kumar Goyal, Adv.Mr. Nitin Sharma, Adv.Mr. Narendra Pal Sharma, Adv. Dr. (Mrs.) Vipin Gupta, AOR Mrs. Rachana Joshi Issar, AOR Mr. Prashant Kumar, AOR Mr. Rajiv Tyagi, AOR Mr. Ajay K. Agrawal, AOR Mr. Shiv Prakash Pandey, AOR Mrs. Suchitra Atul Chitale, AOR Mr. Sudhir Kulshreshtha, AOR Mr. P. K. Manohar, AOR Mr. P. Parmeswaran, AOR Mr. P. Narasimhan, AOR Mr. Pradeep Misra, AOR Mr. Daleep Dhyani, Adv. Mr. Bhuwan Chandra, Adv. Mr. Suraj Singh, Adv. Mr. Manoj Kumar Sharma, Adv. Mr. Amrish Kumar, AOR Mr. R. Bala, Sr. Adv. Mrs. Ruchi Kohli, Adv. Mr. T.S. Sabarish, Adv. Mr. Saurabh Mishra, AOR Mr. Rakesh Chander, Adv. Ms. Priya Kaushik, Adv. Mr. Ankur Prakash, AOR Ms. Aishwarya Bhati, A.S.G. Mr. V. K. Shukla, Sr. Adv. Mr. Rajeev Kumar Dubey, Adv. Mr. Chandrika Prasad Mishra, Adv. Mr. Siddharth Krishna Dwivedi, Adv. Mr. Nitin Pavuluri, Adv. Mr. Ashiwan Mishra, Adv. Mr. Kamendra Mishra, AOR Mr. Gaurav Goel, AOR M/S. Gsl Chambers, AOR Ms. Aparna Bhat, AOR Mr. Gaurav Agrawal, AOR Mr. Arvind Kumar Sharma, AOR Mr. Shantanu Krishna, AOR Mr. Abhinav Agrawal, AOR Ms. Mayuri Raghuvanshi, AOR Mr. Abhinav Shrivastava, AOR Mr. Anurag Kishore, AOR Mr. Abhishek Chaudhary, AOR Mr. Mukesh Kumar Maroria, AOR Ms. Aishwarya Bhati, A.S.G. Ms. Suhasini Sen, Adv. Mr. Gurmeet Singh Makker, AOR Ms. S.s. Rebello, Adv. Ms. Kannu Agarwal, Adv. Ms. Archana Pathak Dave, Adv.Ms. Aishwarya Bhati, A.S.G. Ms. Suhasini Sen, Adv. Mr. Gurmeet Singh Makker, AOR Ms. S.s. Rebello, Adv. Ms. Kannu Agarwal, Adv. Ms. Archana Pathak Dave, Adv.Mr. A.N.S. Nadkarni, Sr. Adv.Mr. Ravi Prakash Mehrotra, Sr. Adv.Dr. Manish Singhvi, Sr. Adv.Mr. Ashok Basoya, Adv.Mr. Sandeep Kumar Jha, Adv. Mr. Jogy Scaria,Adv.Mr. Abhinav Shrivastava, Adv.Mr. Shivang Rawat, Adv.Mr. R.P. Singh, Adv.Mr. Rahul Gupta, Adv.Ms. Radhika Jalan, Adv.Mr. Siddharth Sarthi, Adv.M/S Gsl Chamber,Adv.Mr. Abhimanyu Mahajan, Adv.Mr. Mayank Joshi, Adv.Mr. Abhinav Shrivastava,Adv.Mr. Vaibhav Agnihotri, Adv.Ms. Niharika Ahluwalia, Adv.Mr. Varun Agarwal, Adv.Mr. Ankit Keira, Adv.Ms. Supriya Juneja, Adv.Petitioner-in-person Applicant-in-person, AOR Mr. Atishi Dipankar, AORMr. Amrish Kumar,Adv.Mr. M.K. Maroria,Adv.Mr. G.S. Makker, Adv.Mr. Vijay Panjwani,Adv.Mr. Kamendra Mishra,Adv. Mr. M.C. Dhingra, Adv.Mr. Rakesh K. Mudgal, Adv.Mr. Dinesh Mudgal, Adv.Ms. Savita Kaushik, Adv.Dr. Monika Gosain, AORMr. Ajit Kumar Sinha, Sr. Adv.Mr. Ashwarya Sinha, Adv.Mr. Alok Kumar Singh, Adv.Ms. Priyanaka Sinha, Adv.Ms. Shubhi Sharma, Adv.Mr. Aditya Malhotra, Adv. Mr. Ankur Prakash, AORMr. N.L. Ganapathi, AOR Mr. Sidhant Garg, Adv. M/S. Manoj Swarup And Co., AORDr. Sumant Bharadwaj, Adv.Mr. Vedant Bharadwaj, Adv.For Ms. Mridula Ray Bharadwaj, AOR Mrs. Surbhi Sharma, Adv.Mr. Avinash Yadav, Adv. Mrs. Laxmi Arvind, AOR Mr. Anil Gaur, Adv. Ms. Neha Singh, Adv. Mr. Amrish Kumar Rai, Adv. Dr. Sunil K. Khattri, Adv. Ms. Nalini Singh, Adv. Mr. Badri Prasad Singh, AOR M/S. Lawyer S Knit & Co, AOR Mr. Katubadi Ismail, Adv. Mr. M. R. Shamshad, AOR Mr. Kishan Chand Jain, Adv. Mr. Rajesh Kumar, Adv. Mr. E. C. Agrawala, AOR Mr. Lakshmi Raman Singh, AOR Mr. Nikhil Goel, AOR, Mr. Ajit Sharma, AOR.

ORDER

IA NO. 487/2009 (APPLN. FOR DIRECTIONS ON BEHALF OF TAJ WESTERN GATE MARKET ASSN.)

The prayer made in this application is limited to the extent of seeking a direction against the Agra Development Authority to adopt and execute the proposed plan for rehabilitation of existing shops in *Amrud Ka Tila* parking node.

Learned ASG appearing for the State submits that so far as this rehabilitation proposal is concerned, the same does not survive after 2016 and to that extent the application has become infructuous.

In the course of debating the issue in the Court, it does emerge that while the environment aspect is being looked into by NEERI, there may be occasion where these people who are in occupation of particular portions would have to be rehabilitated elsewhere. Thus, it is for the State Government to consider as to in what manner, the rehabilitation would be required to take place and merely because the earlier scheme has elapsed does not mean that the State can wash its hands off the issue.

We thus, consider appropriate to direct that the State Government would look into the aforesaid aspect along with the Agra Development Authority to work out how the rehabilitation can take place.

The needful be done within eight weeks.

The application stands disposed of with the aforesaid direction.

Report be submitted to this Court.

IN RE: IMPACT ASSESSMENT WITHIN THE PERIPHERY OF TAJGANJ

NEERI has sought extension of time to carry out the exercise in pursuance to the order dated 09.11.2022 and progress report has also been filed in Court.

The aforesaid extension is granted.

Ordered accordingly.

Learned ASG assures that the monies sought for by the NEERI would be paid to them.

IA D. NOS. 85203/2022 AND 103208/2022 (APPLNS. FOR DIRECTIONS AND IMPLEADMENT ON BEHALF OF STATE OF RAJASTHAN

Application for impleadment is allowed for the purpose of this IA only.

Learned Amicus points out that as per the report of the CEC, permission has been granted for removal the trees but subject to certain terms and conditions. Those conditions are acceptable to the applicants.

We take this on record and accordingly, dispose of the application.

IA NOS. 3975 AND 3976/2018 (APPLN. FOR DIRECTION AND EXEMPTION FROM FILING TYPED COPY OF THE PROJECT PROFILE ON B/O U.P STATE INDUSTRIAL DEVELOPMENT CORPORATION) & IA NO. 35972/2020 (APPLN. FOR IMPLEADMENT IN IA NO. 3975/2018)

Application for exemption from filing typed copy of the project profile is allowed.

Application(s) for impleadment/intervention is/are allowed only for this IA.

The report of the CEC, subject to certain terms and conditions, has granted approval for the project to be set up for the Proposed Leather Park in Agra on behalf of the U.P. State Industrial Development Corporation Ltd.

Learned counsel for the intervener points out that there is a fundamental objection to the competency of the authority who has issued the Environmental Clearance which is subject matter in Civil Appeal No.782/2020 in which *status quo* order has been passed.

In our view, appropriate order would be to accept the stand of the parties and needless to say that the applicants have submitted that they will abide by all the terms and conditions.

The work of course cannot start in view of the interdict contained in Civil Appeal No.782/2020 and thus, the application for direction is allowed subject to the ultimate order which would be passed in Civil Appeal No.782/2020.

CIVIL APPEAL NO.782/2020

Learned counsel for the parties assure that they will not take more than 15-20 minutes each for both the sides to urge their submissions.

List for hearing on 28.02.2023.

IA NOS. 54455 AND 54459/2018 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF U.P. STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD.

Application for substitution of Intervenor/ impleadment are allowed.

In view of the approval by the CEC for cutting of the trees, the application(s) is/are allowed as per the terms and conditions specified by the CEC.

IA NOS. 15724/2019, 43243/2019 AND 43237/2019 IN I.A. NO. 54455/18 (APPLNS. FOR SUBSTITUTION, CONDONATION OF DELAY IN FILING THE APPL. FOR SUBSTITUTION AND SETTING ASIDE ABATEMENT ON B/O SHABI HAIDER JAFRI)

Delay in filing substitution is condoned.

Abatement is set aside.

Application for substitution is allowed.

IA NOS. 114057, 116768 AND 125755/2018 (APPLN. FOR IMPLEADMENT, DIRECTION AND EXEMPTION FROM FILING O.T.

IA No.125755/2018-Application for exemption from filing official translation is allowed.

IA No.114057/2018- Application for Impleadment is allowed for this I.A. only.

IA NO.116768/2018-Learned counsel seeks to enter appearance for gas supplying agency and submits that the business is no more with the Gas Authority of India (GAIL) but with GAIL Gas Limited, a subsidiary thereof.

He accepts notice and seeks time to file four weeks to reply.

The State Government to file reply within two weeks thereafter.

List after eight weeks.

(9) IA NOS. 153974/2021 AND 91982/2022 (APPLN. FOR DIRECTION AND EXEMPTION FROM FILING O.T. ON B/O AIRPORT AUTHORITY OF INDIA)

Application for exemption from filing official translation is allowed.

Heard learned counsel for the applicant, learned ASG for the Union of India and the learned Amicus.

It is pointed out that inter terms of the order dated 04.12.2019, the learned ASG on the issue of increase of air traffic had made a submission that a study would have

to be undertaken in this behalf. It is sequiter to that that while passing orders on 11.12.2019, while granting Airport Authority of India permission to construct an additional terminal at the existing Agra Airport, an interdict was placed against both the Airport Authority of India and the Central Government not to grant any permission to increase air traffic in Agra area.

The present application is now seeking removal of the aforesaid interdict.

It is submitted that the requisite studies have been undertaken by the Airport Authority of India as well as the Indian Government and concurrence has been obtained both of the Union of India and the State Government. The Airport Authority of India proposes to invest considerable funds in extension of the airport.

It is thus, submitted that the prerequisites for grant of permission to increase the airport traffic we are satisfied and permission may be granted so that the project takes off.

In view of the aforesaid while removing the interdict, it is made clear that all necessary permission including of the CEC shall be obtained for increasing the traffic.

Learned Amicus points out that there is already a bar of aircrafts flying over the Taj monument/other monuments.

The application is allowed accordingly and the order stands modified to that extent.

IA NOS.129921/2020-INTERVENTION, 129925/2020- FOR DIRECTIONS & 129926/2020-FOR EXEMPTION FROM FILING O.T.

Taken on Board.

Application for exemption from filing official translation is allowed.

Application for impleadment/intervention is allowed for this IA only.

IA No.129925/2020- List on 28.02.2023.

IA NO.44186/2020-CLARIFICATION/DIRECTION

Taken on Board.

List on 28.02.2023.

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