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

Date of decision: 10th APRIL, 2024

IN THE MATTER OF:

+ **CONT.CAS(C) 1177/2022**

BHAVREEN KANDHARI

..... Petitioner

Through: Mr. Aditya N. Prasad, Advocate.

versus

MANDEEP MITTAL

..... Respondent

Through: Mr. Anupam Srivastava, ASC with Mr. Dhairya Gupta, Mr. Vasuh Misra, Advocates for R-1 and Mr. Vipul Pandey, DCG South.

Mr. Parveen Rawal and Mr. Shashank Sachdeva, Advocates for R-2.

Ms. Mehak Nakra, ASC with Ms. Aditi Kapoor and Mr. Abhishek Khari, Advocates along with Insp. Nivbhay Kumar and SI Ravi Yadav.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioner has approached this Court by filing W.P.(C) 10217/2022 for a direction to the Respondents to take a decision on the complaint given by the Petitioner regarding felling of trees at C-321 Defence Colony, and J-10 Lajpat Nagar-III, New Delhi.

2. The Writ Petition was listed on 07.07.2021 and this Court directed the Tree Officer and the Deputy Conservator of Forest to ensure that the trees at the abovementioned two locations are not fell or harmed in any manner.



However, it was held that as far as the tree at Defence Colony is concerned, the Order dated 07.07.2021 would not be applicable if the tree had already been felled. However, as far as the tree at Lajpat Nagar is concerned, the Order dated 07.07.2021 was to apply to the said tree. Stating that the Order dated 07.07.2021, passed by this Court has been violated, the Petitioner has filed CONT.CAS(C) 1177/2022.

3. It is stated that on coming to know that the tree at Lajpat Nagar is being cut, the Petitioner gave a police complaint and the local police apprehended the persons and seized their equipments.

4. Notice was issued in the contempt petition on 03.11.2022. It was stated by the forest authorities that as far as the tree at Lajpat Nagar is concerned, permission had been sought to fell the said tree from the Tree officer on the basis of forged and fabricated documents. The Oral prayer of the Petitioner to implead one Mr. Vikram, the contemnor in the contempt petition as Respondent No.2, was accepted and notice was issued to Respondent No.2.

5. Counter affidavit has been filed by the Deputy Conservator of Forest. Relevant portions of the said counter affidavit reads as under:

“3. That I say the Respondent No. 1 received a letter dated 23.10.2022 vide G.D. No. 21A from the police authorities to verify the above- mentioned permission based upon which the tree was being felled and in due investigation it was discovered that the permission and signatures upon it was forged and fabricated. It is pertinent to mention that the office of the Answering Respondent had never issued the said permission or allotted the said ID No. to the Respondent No. 2 and the said permission is fake and forged. Copy of the said fake permission dated 17.10.2022 is attached herein as



'ANNEXURE -A'.

4. That the Respondent No. 1 viewed the same with utmost seriousness and breach of his public office position and thus, filed a formal complaint with the Police Station, Lajpat Nagar on 01.11.2022. Copy of the Police Complaint is attached herein as 'ANNEXURE - B'.

5. That I say the Respondent No. 1 also filed a complaint with the Deputy Commissioner of Police (South-East) dated 01.11.2022 under Section 154 of the Code of Criminal Procedure, 1973 for offences committed under Section 34, 120A, 120B, 268, 290, 464, 466, 469 and 471 of the Indian Penal Code, 1860 on 01.11.2022. Copy of the said Complaint is attached herein as 'ANNEXURE -C'."

6. On 05.03.2024, this Court passed directions to implead Delhi Police and the DCP, South East was impleaded as a party to the present petition. A Status Report has been filed by the Delhi Police and the same reads as under:

*"1. That the Petitioner has moved present Contempt Petition stating that in the early hours of 23.10.2022 the Petitioner learnt that the trees of the species Subabool (*Leucaena leucocephala*) and *Alstonia* located in and around J-10, Lajpat Nagar-III were being felled. These trees are the subject matter of the Writ Petition (Civil) 10217 of 2022 wherein the order dated 07.07.2022 was passed by this Hon 'ble Court. The Petitioner has prayed for initiating the contempt proceedings against the Respondent/Contemnor for wilfully and deliberately disobeying the Order of this Hon 'ble Court.*

2. That on 23.10.2022, a PCR call vide GD No. 12-A was received at Police Station Lajpat Nagar mentioning that "J-10 Lajpat Nagar bina permission Green tree cut kar rhe



hai". The call was entrusted to SI Birender Singh who alongwith HC Yashwant reached at the spot. Where caller Ms. Anuradha W/o Sh. Sunil Kumar Rio I-18, Lajpat Nagar-III, New Delhi met him and narrated the facts. At the site i.e. J- 10, Lajpat Nagar-III, construction work was going on and it was found that one of the branches of the tree situated in front of the building had been cut by the owner/builder Vikram Sabarwal.

3. That, on enquiry, Mr. Vikram Sabarwal presented a copy of the permission for cutting the tree having No. 2341/TO(S)/Online/Felling/2022-23/2514 Dt. 17.10.2023 to SI Birender Singh. Accordingly, the above said permission letter was sent to the office of Dy. Conservator of forests (South) for verification and the said letter was found to be forged and fabricated. 4. That in this regard a complaint regarding forgery and fabrication of permission to cut the tree was received from Mr. Mandeep Mittal, IFS, Dy. Conservator of Forest & Tree Officer (South Forest Division) for registration of the FIR. Accordingly, on the above said complaint an FIR No. 203/2023 UIS 46514 71 /34 IPC was got registered at PS Lajpat Nagar, N.D. and investigation was taken up. During the investigation it was also came into light that the forest department imposed a fine of Rs. 20,000/- for cutting the tree and accused Mr. Vikram Sabarwal has paid the fine to forest department . 5. That after the completion of investigation chargesheet was filed against the accused person Vikram Sabarwal for committing the offence u/s 465/471/34 IPC by committing forgery of the permission letter purportedly issued by the Dy. Conservator of Forests and also used the forged letter as genuine. The matter is pending trial before the Hon'ble Court of Ld. MM, Sh. Arkit Garg, Saket Court, N.D. and next date of hearing is fixed for 26.06.2024. ”

7. A perusal of the counter affidavit filed by the Deputy Conservator of Forest and the Status Report filed by the Delhi Police shows that the Respondent No.2 herein has presented a forged permission letter for felling



down the tree and on the basis of the said forged permission, the tree at Lajpat Nagar has been cut.

8. This Court has perused the FIR lodged by the Deputy Conservator of Forest regarding the forged permission for the purpose of cutting the tree at Lajpat Nagar. A perusal of the FIR indicates that the tree was cut on the basis of permission purported to have been given by the Forest Department. The FIR indicates that the purported permission is fabricated and forged. Material on record indicates that after investigation, charge-sheet has been filed against Respondent No.2 for offences under Sections 465/471/34 IPC and the case is pending before the Court of Metropolitan Magistrate, Saket Courts. A perusal of the proceedings indicates that the Respondent No.2 has stated that he has got the permission from one Mr. R. P. Dubey from the concerned Department. The Police Officials who were present during the proceedings have stated that the said R. P. Dubey is a fictitious person.

9. It is stated by the learned Counsel for Respondent No.2 that Respondent No.2 had taken the construction assignment of J-10, Lajpat Nagar and he took the assistance of Supervisors who suggested that the tree in question was considered as dangerous for labourers staying at the site and in order to avoid any accident it was decided that an inspection should be conducted by the concerned zonal forest representative. Online application for inspection of the site and for removal of the tree was filed. It is stated that the permission to remove the tree was received on 17.10.2022 from the Deputy Conservator of Forest under the signature of the Tree Officer and on the basis of the said permission the tree was cut.

10. As stated earlier, the FIR indicates that the said permission is forged. Chargesheet has been filed and the trial is on.



11. Undoubtedly, the Order dated 07.07.2022, passed by this Court has been violated. The permission letter discloses that it has been taken by Respondent No.2 and, therefore, the Respondent No.2 has violated the Orders of this Court with impunity. It cannot be said that Respondent No.2 is an illiterate person and that he did not know about the Orders passed by this Court.

12. The Supreme Court in the case of In Re: Vinay Chandra, (1995) 2 SCC 584, had delineated that the purpose of the law of contempt is building confidence in the judicial process. The relevant paragraph of the said judgement has been reproduced as follows:

“39. The rule of law is the foundation of a democratic society. The Judiciary is the guardian of the rule of law. Hence judiciary is not only the third pillar, but the central pillar of the democratic State. In a democracy like ours, where there is a written Constitution which is above all individuals and institutions and where the power of judicial review is vested in the superior courts, the judiciary has a special and additional duty to perform, viz., to oversee that all individuals and institutions including the executive and the legislature act within the framework of not only the law but also the fundamental law of the land. This duty is apart from the function of adjudicating the disputes between the parties which is essential to peaceful and orderly development of the society. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all costs. Otherwise, the very cornerstone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. It is for this purpose that the courts are entrusted with the extraordinary power of punishing



those who indulge in acts whether inside or outside the courts, which tend to undermine their authority and bring them in disrepute and disrespect by scandalising them and obstructing them from discharging their duties without fear or favour. When the court exercises this power, it does not do so to vindicate the dignity and honour of the individual judge who is personally attacked or scandalised, but to uphold the majesty of the law and of the administration of justice. The foundation of the judiciary is the trust and the confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend to create disaffection and disrespect for the authority of the court by creating distrust in its working, the edifice of the judicial system gets eroded.” (emphasis supplied)

13. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law, since the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen and the democratic fabric of society will suffer if respect for the judiciary is undermined. For the acts done by the Respondent No.2/Contemnor, he deserves no mercy from this Court. A strong message has to be sent to the society that the orders of the Court cannot be flouted.

14. The facts clearly establishes that despite the order dated 07.07.2021, permission had been obtained by the Respondent No.2 to cut the tree in question. The said permission is claimed to be a forged document by the forest department. In view of the above, this Court holds that Respondent No.2 is guilty of wilful disobedience of the Orders of this Court.

15. This Court, at this stage, is not making any observations as to whether it was Respondent No.2 who has forged and fabricated the documents lest it would affect his defence in the criminal case.



16. It is also made clear that this Order has been passed only in relation to the wilful disobedience of the Orders of this Court.

17. List on 30.04.2024 for hearing on the punishment to be imposed on the Respondent No.2 for offences under Section 12 of the Contempt Of Courts Act, 1971.

SUBRAMONIUM PRASAD, J

APRIL 10, 2024

Rahul