

ITEM NO.24

COURT NO.9

SECTION IX/PIL(W)/XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C)

No(s). 8519/2006

(Arising out of impugned final judgment and order dated 02/05/2006
in SCA No. 9686/2006 passed by the High Court Of Gujarat At
Ahmedabad)

UNION OF INDIA

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(with interim relief and office report)
(For final disposal)

WITH

W.P.(C) No. 314/2010

(With appln.(s) for de-tagging and Office Report)

SLP(C) No. 36458/2012

(With Interim Relief and Office Report)

CONMT.PET.(C) No. 397/2013 In SLP(C) No. 8519/2006

SLP(C) No. 19265-19268/2013

(With appln.(s) for impleadment and Interim Relief and Office Report)

SLP(C) No. 19697/2013

(With Interim Relief and Office Report)

SLP(C) No. 19783/2013

(With Office Report)

SLP(C) No. 20177-20180/2013

(With Office Report)

SLP(C) No. 20183-20186/2013

Signature Not Verified

(With Office Report)

Digitally signed by

VINOD KUMAR

Date: 2016.05.14

14:00:45 IST

Reason:

SLP(C) No. 20187-20190/2013

(With Office Report)

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SLP(C) No. 20191-20194/2013

(With Office Report)

SLP(C) No. 20195-20198/2013

(With Office Report)

SLP(C) No. 20199-20202/2013

(With Office Report)

SLP(C) No. 20204-20207/2013
(With Interim Relief and Office Report)

SLP(C) No. 20208-20211/2013
(With Office Report)

SLP(C) No. 20212-20215/2013
(With Office Report)

CONMT.PET.(C) D 34470/2013 In SLP(C) No. 8519/2006

S.L.P.(C)...CC No. 4766/2014
(With Office Report)

SLP(C) No. 26467-26470/2014
(With Office Report)

SLP(C) No. 26471-26474/2014
(With Office Report)

SLP(C) No. 26476-26479/2014
(With Office Report)

SLP(C) No. 26481-26484/2014
(With Office Report)

SLP(C) No. 26485-26488/2014
(With Office Report)

SLP(C) No. 26489-26492/2014
(With Office Report)

SLP(C) No. 26493-26496/2014
(With Office Report)

SLP(C) No. 30278-30281/2014

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(With Office Report)

SLP(C) No. 30283-30286/2014
(With Office Report)

SLP(C) No. 30287-30290/2014
(With Office Report)

SLP(C) No. 30274-30277/2014
(With Office Report)

CONMT.PET.(C) No. 549/2014 In SLP(C) No. 8519/2006
(With appln.(s) for intervention)

SLP(C) No. 34249-34252/2014
(With Office Report)

SLP(C) No. 121-124/2015
(With Office Report)

SLP(C) No. 26462-26465/2014
(With Office Report)

SLP(C) No. 10309-10312/2015
(With Office Report)

Date : 10/05/2016 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s)

Applicant Mr. Colin Gonsalves, Sr. Adv.
Mr. Kamlesh Kumar Mishra, Adv.
Ms. Jyoti Mendiratta, Adv.

Intervenor Mr. Raju Ramachandran, Sr. Adv.
Ms. Vanshuja Shukla, Adv.

Mr. Jetendra Singh, Adv.
Ms. Kalpana Sabharwal, Adv.
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Mr. Aniruddha P. Mayee, Adv.

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Mr. Advitiya Awasthi, Adv.

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Mr. Rajeev Dubey, Adv.

Mr. Swetaketu Mishra, Adv.
Mr. V. K. Monga, Adv.

Ms. Anindita Pujari, Adv.
Ms. Sarita Panda, Adv.

Mr. Sanjay R. Hedge, Sr. Adv.
Ms. Vernika Tomar, Adv.
Mr. Pukhramban Ramesh Kumar, Adv.
Mr. Sumit Kumar Vats, Adv.

Mr. Sanjay Dubey, Adv.
Mr. Sanjeev K. Saroha, Adv.
Ms. Kriti Kumar, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

Mr. Ashok Panigrahi, Adv.

Mr. Jetendra Singh, Adv.
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Mr. Ashok Kr. Singh, Adv.

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Mr. Chirag M. Shroff, Adv.
Mr. Debashish Rout, Adv.

Mr. Bharat Swaroop Sharma, Adv.
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Mr. R. Sathish, Adv.

Mr. Guntur Prabhakar, Adv.
Ms. Prerna Singh, Adv.

Mr. Saurabh Ajay Gupta, AAG, Punjab
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Mr. Kuldip Singh, AOR

in SC 8519/06 Mr. Ravi Prakash Mehrotra, Adv.
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Mr. Neelmani Pant, Adv.

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Mr. Naresh K. Sharma, Adv.

Mr. Shekar G. Devasa, Adv.

Mr. Nirnimesh Dube, Adv.

Mr. Sateesh Galla, Adv.

Mr. N. Rajaraman, Adv.

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Mr. Pragyan Sharma, Adv.

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Mr. Sunil Fernandes, Adv.

Mr. Puneeth K.G., Adv.

Ms. Astha Sharma, Adv.

Mr. Siddharth Bhatnagar, Adv.

Mr. Sidharth Mohan, Adv.

Ms. Garima Tiwari, Adv.

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Mr. Ranjan Mukherjee, Adv.

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For impleading
party/impleader

Mr. Raj Kumar Mehta, Adv.

Mr. Sudhakar Rao, Adv.

Ms. Himanshi Andley, Adv.

Mr. Abhishek Upadhyay, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. No.19/2016:

Taken on Board.

Issue notice.

Learned counsel for the respondents is at liberty to file objections, if any, to the application within two weeks.

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Contempt Petition (C) No.549/2014:

The affidavit filed by the Chief Secretary, on behalf of the State of Chattisgarh along with certain documents namely Annexure R-1 to R-4, would show that the concerned officer, on behalf of the State Government, has taken over possession of the temple area in pursuance of the order dated 20.02.2014 and the Court of Additional Tahsildar, Raipur, District Raipur, has in turn, by its notice/order/direction dated 26.04.2016 issued to the Commissioner, Municipal Corporation, Raipur, Chhattisgarh, has handed over possession to it as contained in Annexure R-4. The relevant portion of the order/notice/direction is extracted hereunder:

"On the aforementioned subject it is stated that, by encroaching on rakba 0.404 hectare part of Khasra No.555/1, Rakba 1.720 hectare and on construction of Hanuman Temple Parisar, Satsanga Bhawan, Park and 19 shops by the Chhaganlal Govindram Agrawal Trust, on 20.02.2014 eviction order was passed by order dated 20.02.2014 passed in Revenue Cases Nos. 01/A-68/year 2012-13 Govt. of Chhattisgarh Vs. Chhaganlal

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Govindram Agrawal Trust, Gram Raipura Patwari Halka No.104/35, Tahsil and District Raipur of this Court. By forfeiting the structure constructed on encroachment land under Section 248 of the Chhattisgarh Land Revenue Code possession has been given to the Municipal Corporation, Raipur and after taking the possession of the said structure on 26.05.2014 bill of electricity meter engaged therein are being paid by the Nagar Nigam, Raipur. After the occupation, the Nagar Nigam, Raipur has not submitted any information with the

regard to the proceedings.

Therefore, under Section 248(1) of the Chhattisgarh Land Revenue Code it is directed that area -0.404 hectare of government land Khasra No.555/1, Area,-1.720 hectare land situated in Village-Raipura, P.H.No.104/35 has been encroached by Chaganlal Govindram Agrawal Trust and they have constructed Hanuman Mandir, Satsang Bhawan, Garden and 19 constructed shops which are to be removed and for taking necessary proceedings for bringing it to original state and inform this court within 15 days"

It is evident from the affidavit that it has forfeited the structures constructed on encroachment land under Section 248 of the Chhattisgarh Land Revenue Code, possession of the encroached portion of the government land with structures has been taken over by the Revenue Department of the State Government on 26.05.2014 in pursuance of the eviction order dated 20.02.2014 passed in Revenue Case No.01/A-68/2012-23, Government of Chhattisgarh v. Chaganlal Govindram Agrawal Trust, Gram Raipura Patwari Halka No.104/35, Tahsil and District Raipur, and the State Government, in turn, has further delivered the possession of the said land with structures to the Municipal Corporation, to take further action in the matter. Mr. Harish N. Salve, learned senior counsel appearing for the State of Chhattisgarh submits that necessary action for removal of the unauthorised structures including the unauthorised structures of the temples are being taken. This submission is placed on record and Mr. Salve, learned senior counsel, has submitted report regarding action taken by the State Government and local self

government, which shall be taken on record.

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In view of the above, the application for intervention, filed by the traders of the area in question, cannot be considered by this Court. Hence, the intervention application is dismissed.

Rest of the matters:

In compliance of order dated 08.03.2016 and 19.04.2016, Mr. P.S. Patwalia, learned Additional Solicitor General, appearing for the Union of India, has submitted a compilation statement of the affidavits filed by various State Governments and Union Territories. According to the compilation following 26 State and Union Territories have filed their affidavits:

1. Andaman & Nicobar Islands
2. Arunachal Pradesh
3. Assam
4. Bihar
5. Chhattisgarh
6. Chandigarh
7. NCT of Delhi
8. Goa

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9. Gujarat
10. Haryana
11. Himachal Pradesh
12. Jammu & Kashmir
13. Jharkhand
14. Karnataka
15. Madhya Pradesh
16. Maharashtra
17. Meghalaya
18. Mizoram

19. Odisha
21. Puducherry
22. Punjab
23. Rajasthan
24. Sikkim
25. Tripura
26. West Bengal

During the course of hearing, it is submitted by learned senior counsel/learned counsel for the following States/Union Territories, that they have also complied with the aforesaid orders and filed

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their affidavits:

27. Andhra Pradesh
28. Kerala
29. Tamil Nadu, and
30. Uttar Pradesh

Implead State of Telangana as party-respondent, amend the cause title accordingly and issue notice to it.

In addition, learned standing counsel for the State of Telangana be served the notice by dasti.

State of Telangana shall file its affidavit within two weeks.

As per our orders dated 27.07.2010 and 18.01.2013, the State of Nagaland and Union Territory of Lakshadweep, have been exempted from filing the affidavit. Therefore, following States/Union Territories remains, who have not filed their affidavits:

1. Dadra & Nagar Haveli
2. Daman & Diu
3. Uttarakhand, and

4. Telangana

There appears to be some contradiction in respect of status of affidavits filed by the States and Union Territories as mentioned in the office report dated 10.05.2016 and the compilation submitted today by Mr. Patwalia in the Court. The Registry is directed to verify and submit a detailed report as to which of the States/Union Territories have not complied with our directions issued on 08.03.2016 and 19.04.2016.

The States and Union Territories, who have not filed their affidavits, are given two weeks time as a last chance to file affidavit through their Chief Secretaries stating the reasons for not complying with the orders passed by this Court from time to time, failing which, the respective Chief Secretaries shall remain present personally before this Court on the next date of hearing to take/accept notice for initiation of contempt proceedings for wilful and deliberate defiance in complying with the orders passed by this Court.

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However, Chief Secretaries of such States and Union Territories, who would file affidavit within two weeks from today, after serving a copy of the same in the office of Mr. P.S. Patwalia, learned Additional Solicitor General, appearing for the Union of India, would be exempted from personal appearance.

The instructing counsel of Mr. Patwalia is directed to furnish the copy of the compilation prepared by him to all the learned counsel

appearing for the different States and Union Territories, who have already filed their affidavits, for their perusal so as to enable them to put forth their stand/objection, if any, on the compilation prepared by Mr. Patwalia and to take necessary steps for compliance of our orders in letter and spirit.

Unregistered application for exemption of Chief Secretary, Govt. of Punjab, from personal appearance with permission of this Court is allowed.

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List the matters in the second week of July, 2016 on a non-miscellaneous day for further orders.

(VINOD KUMAR JHA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Annexure R-1 to R-4, containing the action taken record and compilation statement submitted by Mr. Patwalia are enclosed)