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C.A.No. 3769 OF 1996
ITEM No.301 & 302

Court No. 2

SECTION XIV

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

I.A.No.19-21, 24 in Civil Appeal No.3769/1996

BUFFALO TRADERS WELFARE ASSON.

Appellant (s)

VERSUS

U.O.I. & ORS.

Respondent (s)

(for clarification/direction)

I.A.No.22/2004 (appln. for intervention/direction) and
W.P. (C) No.550/2004 (with appln.(s) for AD interim orders and office
report)

Date : 30/11/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE A.K. MATHUR

For Petitioner (s) :Mr. Jayant Bhushan, Sr.Adv.

I.A.19 Mr. P.H. Parekh, Adv.

Mr. Rohit Alex, Adv.

Mr. Rajiv Mishra, Adv.

Mr. B.B. Bhatia, Adv.

Ms. Iti Sharma, Adv.

ForM/s. P.H. Parekh & Co.

I.A.22/Indian Air ForceMr. T.S. Doabia, Sr.Adv.

Mr. Jagjit Singh Chhabra, Adv.

Ms. Rekha Pandey, Adv.

Ms. Anil Katiyar, Adv.

For Respondent (s)Mr. G.E. Vahanvati, SG.

For Urban DevelopmentMr. Devadatt Kamat, Adv.

Ministry, UOI & DelhiMrs. Anil Katiyar, Adv.

Mr. K.C. Dua, Adv.

Mr. M.C. Mehta, Adv.

Mr. Sushil Kumar Jain, Adv.

Ms. Binu Tamta, Adv.

Mr. Hardeep Singh Anand, Adv.

Ms. Chitra Markandaya, Adv.

For DDAMr. V.B. Saharya, Adv.

forM/s. Saharya & Co.

Mr. S.A. Syed, Adv.

For CPCBMr. Vijay Panjwani, Adv.

Mr. Goodwill Indeevar, Adv.

Mr. K.R. Rajasekaran Pillai, Adv.

Mr. Shrish Kumar Misra, Adv.

Mr. Ashok K. Srivastava, Adv.

for MCD Mr. Mukul Rohtagi, Sr. Adv.

Mr. Sanjiv Sen, Adv.

Mr. Rajan Narain, Adv.

Mr. Prashant Chaudhary, Adv.

Mr. Sunil Gupta, AAG.

Mr. S. Wasim A. Qadri, Adv.

For U.P. Mr. Kamendra Mishra, Adv.

Mr. Rajeev Kumar Dubey, Adv.

Mohd. Saud, Adv.

For NCRPB Mrs. Sheil Mohini Sethi, Adv.

Mrs. Seema Midha, Adv.

Mr. Sakesh Kumar, Adv.

Mr. Satish K. Agnihotri, Adv.

In W.P.(C)550/04 Mr. R.K. Jain, Sr. Adv.

Mr. Vijay Hansaria, Sr. Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Sachin Jain, Adv.

I.A.No.25 Ms. Urvashi Popli, Adv.

Mr. Ashok K. Mahajan, Adv.

I.A.20-21 Mr. Kamal Mohan Gupta, Adv.

I.A.No.24 Mr. Ashok Kumar Sharma, Adv.

I.A.No.23 Mr. Praveen Jain, Adv.

UPON hearing counsel the Court made the following

O R D E R

I.A.NO.19/2004 IN C.A.NO.3769/1996

This application for clarification is filed by the persons who are involved in the trade of skin and hide of animals. They contend that it is a trade incidental to slaughtering of buffaloes and, hence, they have a right to carry on the said trade in the area where slaughtering of the buffaloes is presently being permitted, and thereafter at the place where the said slaughtering would be relocated. The MCD in its reply filed to this application has stated that the activities of skinning the hide of dead animals or curing the same is incidental to legally permitted activity of slaughtering of the animals. To that extent, they have no objection to this trade being conducted in the vicinity of the slaughter-house. In the said view of the matter this application is allowed and the salting and storage of skins of legally slaughtered animals near the present slaughter-house is permitted until the same is shifted. However, we make it clear that this permission is confined only to legally slaughtered animals and the authorities concerned are free to prevent and if necessary take such legal action in regard to the people who indulge in illegal slaughtering as well as those people who indulge in salting and storing of skins of such illegally slaughtered animals.

IAS. 20-21, 24/2004 in CA 3769/96 & WP © No.550/04 :

Heard learned counsel for the parties. We find no merit in these applications and the writ petition which are dismissed accordingly.

IA 23 & 25/2004 in CA 3769/96 :

Taken on board. Heard learned counsel for the applicants.

We find no merit in these applications. The applications are dismissed.

IA 22/2004 in CA 3769/96 :

On 5.11.2004 this application came up for consideration and based on the apprehension expressed by the Indian Air Force in regard to the possible danger from birds to their aircrafts. We summoned the Chief Secretary of NCT, Delhi and Secretary, Ministry of Urban Development, Government of India to the Court on 17.11.2004 to reconsider, if need be, the location of the slaughter-house at the land-fill area at Ghazipur and shifting the proposed abattoir therefrom. Before the date fixed for their appearance, the said officers had convened a meeting of the concerned officers on 10.11.2004 in which apart from the Chief Secretary, Govt. of NCT, Delhi, the Secretary, Ministry of Urban Development, Defence Secretary, Commissioner, MCD, Vice-Chairman,

DDA, representatives from the Air Headquarters, Ministry of Civil Aviation, Department of Animal Husbandry and Dairying and the DGCA took part. In the said meeting, as could be seen from the joint affidavit filed, the possible danger to the aircrafts flying in and out of the Hindon air-base was deliberated upon. The Committee noticed the existing ground realities and noted that in the said land-fill area as on date nearly 3000 MT of garbage including 300 MT of meat waste are being dumped. The said Committee also noticed the fact that there are fish and poultry markets adjoining the said land-fill site which were reported to be in an unhygienic condition. The Committee examined the photographs of the land-fill site, copies of which are produced along with the affidavit which indicated the presence of thousands of birds over the land-fill area as at present. On the above factual basis the Committee formed an opinion that a new abattoir which will be a modern air-conditioned plant where the entire operations will be undertaken in a closed building and no waste will be disposed of in the open, could be a suitable project at the said land-fill area. The Committee also noticed that the plan of the MCD to develop a green belt around the proposed abattoir which should be aesthetically acceptable to one and all. During the course of the meeting the requirement of Aircraft Act, 1934 and Rule 81B of the Aircraft Rules, 1937 were also taken into consideration and it was ultimately decided to constitute a Committee consisting of representatives of the Ministry of Urban Development, Ministry of Civil Aviation, Department of Animal Husbandry and Dairying, MCD, Govt. of NCT, Delhi and IAF to look into the various aspects of the issues involved to resolve the difficulties, if any, in setting up the abattoir. In the said background an assurance was given to this Court that the order of this Court dated 14.7.2004 directing the construction of a modern abattoir at the Ghazipur land-fill site will be implemented in a responsible and proper manner. The said affidavit also stated that there is no question of indicating any other alternative site for putting up of the abattoir.

After this affidavit was filed in the Court though there was no need to further hear the applicant in IA No.22/2004, we still directed the application to be listed today i.e. 30.11.2004 so that the applicant could study the abovesaid affidavit and take a realistic view of the matter. Though sufficient time was granted the applicant in IA 19/2004 did not circulate any reply or objection to the abovementioned joint affidavit but today in the Court handed over an affidavit wherein a technical objection is raised to the effect that no sanction as yet has been obtained from the competent authority under Rule 81B of the Aircraft Rules, 1937. In regard to the existing situation in the proposed site it is stated casually that:

"The proposed slaughterhouse is located within the airfield zone. Therefore, any bird activity within this zone may endanger the aircraft operations from Hindon airfield. It is also relevant that the bird activity is not related to slaughtering only but also to ancillary activities of the slaughter house namely the skin/hide salting etc. It is brought to the kind notice of the Hon'ble Supreme Court that Hindon airfield is responsible for providing air defence cover to Delhi and hence, environment to conduct safe flying from this base is of paramount importance."

The statement extracted hereinabove clearly shows that the deponent of the affidavit has neither visited the site nor was properly instructed as to the existing situation at the Ghazipur land-fill site. As stated above apart from the report of the Committee the photographs produced themselves indicate that as on today there are thousands of birds hovering over the land-fill site and the applicant has neither taken note of the same nor taken any steps to prevent the said menace which according to the applicant is a danger to the aircrafts. This only indicates that an objection is being taken only on a technical ground without appreciating the advantage of the charge in the construction of a modern abattoir.

The contents of the affidavit also show that the applicant has not even bothered to find out from the MCD the nature of the proposed abattoir and its working which according to the joint affidavit shows that the existing bird menace would be eliminated with the construction of the modern abattoir. We also take note of the fact that the representatives from the Air Headquarters were present in the joint meeting and they were apprised of the nature of construction of the abattoir and that the Committee constituted will take proper steps in constructing the abattoir which would take care of the problem of bird menace.

Be that as it may since the representatives of the DGCA, Air Headquarters and Ministry of Civil Aviation were present at the meeting of 10.11.2004 the issuance of a permission under section 81B of the Aircraft Rules, even though the same is a formality, may be obtained by the MCD through the cooperation of the Chief Secretary, NCT, Delhi and Secretary, Ministry of Urban Development, Govt. of India. The MCD will also produce the proposed plan of the abattoir and a note as to its working to the DGCA for this purpose. The Chief Secretary, NCT, Delhi and Secretary, Ministry of Urban Development, Govt. of India will coordinate with MCD in obtaining the above said permission at the earliest.

The MCD will also file a copy of the proposed construction plan of the new abattoir with complete note on its nature of functioning and if possible an Architect's view of the land-fill area after the construction of the abattoir and landscaping in this Court, within 4 weeks from today.

In the meantime the construction and other activities as directed vide this Court's order dated 14.7.2004 will continue.

List this matter for further orders on 4th February, 2005.

(PAWAN KUMAR) (PREM PRAKASH)
COURT MASTER

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