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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 11th May, 2023

+ **W.P.(C) 6137/2023 and CM APPL. 24178/2023**

DURGA P MISHRA Petitioner

Through: Ms. Rubal Bansal Maini, Mr. Parag Maini, Mr. Abhimanyu Chopra, Mr. Vikas Maini and Mr. Ankit Banati, Advocates (M: 9654984817).

versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr Anupam Srivastava, ASC for GNCTD with Mr Ujjwal Malhotra, Adv along with Prabhat Srivastava- Assistant Engineer, PWD (M: 9811533855).

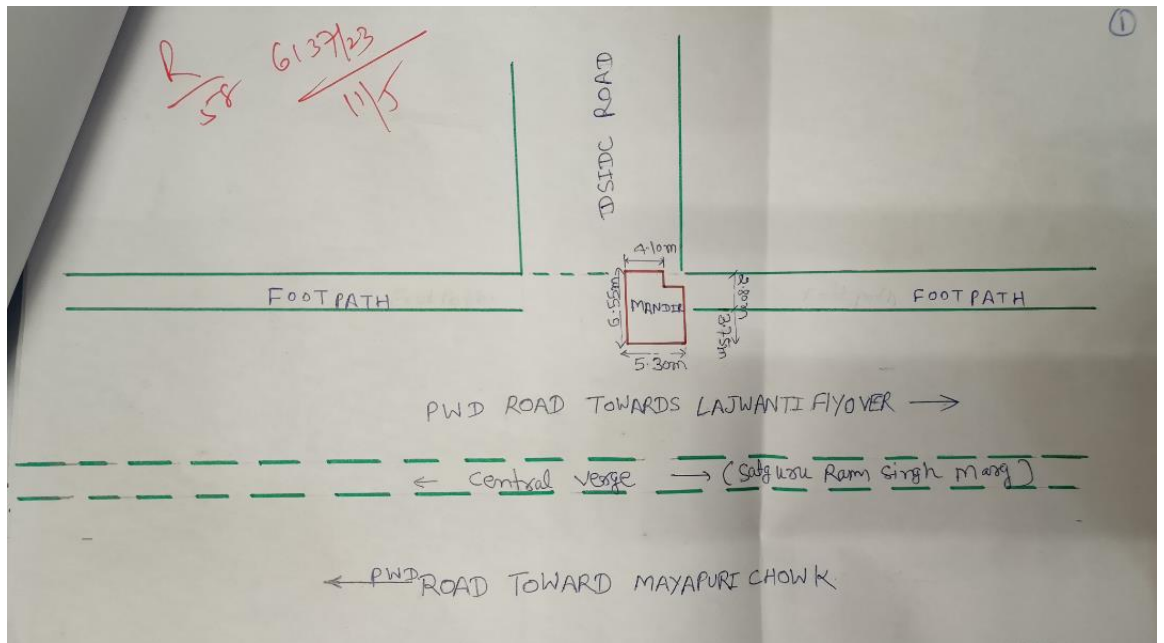
CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner - Durga P. Mishra has filed the present petition seeking quashing of the notice dated 25th April, 2023 issued by the PWD and the minutes of the meeting of the Religious Committee dated 10th March, 2022 by which the decision has been taken to demolish the temple being “*Kali Mata Mandir*” at Mayapuri Chowk, Delhi.
3. The temple is stated to be 55 years old. The submission of Id. Counsel for the Petitioner is that the Petitioner is the priest and the caretaker of the temple. On a query from the Court, Id. Counsel for the Petitioner admits that the temple is on public land. However, her contention is that the temple does not affect the flow of the traffic in the area and it is because of the vehicles

which are parked behind the temple in the shopping area, that the flow of the traffic is affected.

4. The matter was listed yesterday i.e. on 10th May, 2023 and s the ld. ASC for the GNCTD was requested to submit a sketch of the road and the manner in which the temple is located along with photographs. Today, the sketch has been produced and the same is as under:



5. Some of the images which have been submitted today are set out below:

सायमेव जयते



6. As per the sketch and the photographs which have been produced today, it is clear to the Court that the temple is on Government land. In fact the footpath for pedestrians as also the road has been encroached by the temple which is not permissible. Further, because of the location of the temple i.e. in the corner of two roads, one main road and one arterial road, the smooth flow of the traffic is bound to be impeded

7. A perusal of the minutes of the Religious Committee meeting which was held on 10th March, 2022 would also show that the Committee has considered the entire aspect as under:

“Kali Mata Mandir existing on the main road near Junk Market towards Mayapuri Chowk to Lajwanti Chowk

9. *The Secretary, PWD informed that as per the directions of the Religious Committee in its meeting dated 15.09.2021, a meeting was convened by the PWD, GNCTD on 26.10.2021 with all stakeholders and caretaker of temple to explore the possibility of shifting/removing of Kali Mata Mandir existing on the main road near Junk Market towards Mayapuri Chowk to Lajwanti Chowk. The caretakers of the temple demanded vacant land nearby to relocate the temple. The representative of PWD informed them that PWD does not have any vacant land to relocate the temple.*

10. *The Secretary, PWD further informed that the Kali Mata Mandir is a permanent structure and the same is constructed on pavement and the main road near Junk Market towards Mayapuri Chowk to Lajwanti Chowk and creating hindrance to easy movement of traffic and sometimes cause at traffic jam. The Kali Mata Mandir near Junk Market towards Mayapuri Chowk to Lajwanti Chowk comes under 77 corridors and the decongestion of A, B & C category of 77 corridors is being monitored by the Hon'ble Supreme Court of India in WPC No. 13029/1985 M.C. Mehta Vs UOI &*

Others (IA No. 34/1999). However, no land has been identified by stakeholders for relocating the said temple. Further, there is no land available with PWD to shift the above said temple. The Secretary, PWD requested to remove the above said temple for decongestion of the corridor and to maintain the unhindered movement of traffic.

11. The Chairman mentioned that it is relevant to also consider the decision of Hon'ble High Court of Delhi vide its order dated 25.08.2015, in an unrelated Writ Petition (C) No. 5234/2011, where it directed the land owning agency to "demolish the entire construction above the ground floor as well as the portions of the ground floor where idols are not Installed/ placed". The land owning agency could take action as considered appropriate as regards the encroachment except the sanctum sanctorum area.

12. After going through all the documents and photographs of the temple placed before the Committee by Land Owning Agency and taking into consideration the observations of Land Owning Agency, local area Police & Special Branch, Delhi Police and having considered that the said unauthorized religious structure comes under the list of A, B & C category of 77 corridors which is being monitored by the Hon'ble Supreme Court of India in WPC No. 13029/1985 M.C. Mehta Vs UOI & Others (IA No. 34/1999) for immediate decongestion, Religious Committee recommends that the unauthorized religious structure (Kali Mata Mandir) situated on the main road near Junk market towards Mayapuri Chowk to Lajwanti Chowk, is an obstruction to free flow of traffic on the road and therefore should be removed to ensure unhindered movement of traffic.

13. After the recommendation of the Committee has been approved by the Govt. of NCT of Delhi, the land owing agency shall remove the unauthorised structure with proper planning, in coordination with

Delhi Police. The land owning agency shall also place the idols of the said temple with due respect in the nearby/appropriate temples.”

8. As per the minutes of the Religious Committee meeting, the Committee has come to the conclusion that the temple structure is unauthorised and is situated on the main road. It is also obstructing free flow of traffic and thus had directed the removal of the said unauthorised religious structure.

9. In view of the fact that a decision has been taken by the Religious Committee after considering all the relevant factors and PWD is giving effect to the same, this Court is not inclined to interfere with the demolition of the temple structure in the present petition.

10. In view of the nature of the religious structure, the Petitioner is permitted to remove the idols and other religious objects in the temple within one week for the same to be placed in other temples as directed by the Religious Committee.

11. After 20th May, 2023, the PWD is free to carry out the demolition and remove the unauthorised construction. No impediment shall be caused by the Petitioner or anyone on behalf of the Petitioner in the same. The local police shall render full assistance in the process in order to maintain law and order.

12. The petition along with all pending applications is disposed of.

PRATHIBA M. SINGH, J.

MAY 11, 2023

mr/kt