

Item No. 05 & 06

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 380/2018
(I.A. No. 114/2020)

Park Avenue Plot Holders Welfare Society & Anr. Applicant(s)

Versus

Union of India & Ors. Respondent(s)

WITH

Original Application No. 999/2019
(I.A. No. 141/2020, I.A. No. 142/2020 & I.A. No. 389/2020)

Dr. Ajay Kumar Applicant

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 19.01.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Raman Yadav, Advocate in O.A. No. 380/2018

Respondent(s): Mr. Vishwajit Singh and Dr. Sandeep Singh, Advocate for State of UP
Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Rachit Mittal, Advocate for MDA
Mr. Sanchit Garga, Advocate for R-8

ORDER

Original Application No. 380/2018

1. Grievance in this application is against the illegal sale and constructions over land reserved for park and open spaces in violation of

the Meerut Master Plan 2021, in utter disregard of provisions of U.P. Parks and Play Ground and Open Spaces (Preservation and Regulation) Act, 1974, which poses a serious threat to the environment of the area.

2. The application was filed on 30.05.2018. Notice was issued to the respondents on 31.05.2018 i.e. the State of UP and its officers and two private persons. They have filed their written response. The Tribunal has dealt with the matter by several orders requiring State of UP to take remedial action. The matter was last reviewed on 17.01.2020. The Tribunal noted the stand of the State that a Policy was being prepared to remedy the situation. It was observed:-

*“The aforesaid narration of facts and the proceedings in this case wherein statements had been made on different occasions for the purpose of ensuring that **the land meant for park and green belt would be retained safely without encroachment had all been without any result. We find that ever-since the year 2014 when a representation was given to the concerning department and even during the pendency of the present case before us where many years have been passed, no concrete steps have been taken by State of Uttar Pradesh. We are sure that during this intervening period of more than five years much change must has taken place at the site and the land must have been used for different purposes by the individuals by claiming title in the property in question as having been purchased through registered sale deed. All this has happened due to the snail speed with which the respondent Government and its authorities have been proceeding.***

In view of the above, we direct the Chief Secretary, State of Uttar Pradesh to take a final decision, for framing a policy or amending the relevant legislation for the purpose of saving/protecting the land which is meant for park and green belt under the Urban Master Plan of the State, on or before 31st January, 2020.”

3. In pursuance of the above, an affidavit has been filed on 13.03.2020 by the Principal Secretary, Housing and Urban Development, UP, to the effect that certain illegal constructions have been demolished and FIR has also been registered on 04.08.2018. some illegally built houses have been sealed on 16.05.2018, under the Uttar Pradesh Urban

Planning and Development Act, 1973. Vide letter dated 19.02.2020, the Government of U.P., has issued directions for preventing any illegal constructions against the permitted land user in accordance with the provisions of the Uttar Pradesh Urban Planning and Development Act, 1973. To prevent illegal sales, directions have been issued that following details must be mentioned in the Sale Deed:-

- “(A) Gata number and name of Village, Tehsil and District should be mentioned.*
- (B) In case the land exists within Regulated Area/ Development Area, the name of the respective Regulated Area/ Development Area should be mentioned.*
- (C) In case the land is proposed to be used for park, open space, greenbelt, playground and road in the Master Plan, then the land-use must be mentioned.*
- (D) In the event of construction against the land-use as mentioned in the aforesaid sub-para C, the purchaser will be responsible for all legal proceedings including demolition, such consent must be mentioned in the Sale Deed.”*

4. According to the State, the steps taken will prevent fraudulent sales and illegal constructions.

Original Application No. 999/2019

5. O.A. No. 999/2019, Dr. Ajay Kumar v. UOI & Ors., also involves similar issue. The matter was last dealt with on 20.05.2020 as follows:-

“1&2xxx.....xxx.....xxx

3. Accordingly, an action taken report has been filed by the MDA on 20.03.2020 inter-alia stating as follows:

- “(4) Since for compliance of the aforesaid directions mentioned in the G.O. No. 169/Eight-3-20-206 Misc./18TC dated 19.02.2020, it would be necessary to get them superimposed on the location map, which may take some time. Therefore, the Authority has written a letter bearing no. 07/C.T.P./20 dated 17.03.2020 to the office of Stamp and Registration mentioning that till the time the exercise of getting the khasra nos. superimposed on the location map is not over, the office of Stamp and Registration should before registration of the sale deed enquire from the*

Authority about the land use of the said land in the Master Plan 2021.

5. Apart from the above, the Authority in first phase has identified 231 illegal constructions. The show cause notices under Section 26-A (4) and Section 27 of the Uttar Pradesh Urban Planning and Development Act, 1973 have been issued to all 231 violators asking as to why the demolition order is not passed on the constructions raised by the violators.

(6) In addition to that the public notice boards have been installed at various places mentioning that no construction is permitted on the land reserved for Park, Open Spaces, Green Verge and Stadium or Road mentioned in the Meerut Master Plan 2021.”

4. The above report does not show of tangible final action while the problem is acknowledged. Learned Counsel for the MDA states that requisite action will now be taken expeditiously.

5. Let the necessary effective steps be taken in accordance with law and further report filed before the next date. Report be sent by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

6. Learned Counsel for the MDA has stated that another matter on the same issue being O.A. No. 380/2018, Park Avenue Plot Holders Welfare Society & Anr. Vs. Union of India & Ors. is also pending before this Tribunal and is fixed for hearing on 17.07.2020.”

6. Accordingly, an action taken report has been filed on 18.01.2021 by the Meerut Development Authority to the effect that more than 250 illegal constructions were identified. Orders have been passed for demolition of 185. 20 have been demolished. Four have been sealed. 61 matters are pending in appeal.

7. In view of the above, the Meerut Development Authority may take further action in accordance with law which may be reviewed periodically by the Principal Secretary, Urban Development Department, UP. It may be ensured that the land use is not changed without following due process of law, which may be regulated in terms of the Master Plans by

the concerned authorities. The Principal Secretary, Housing and Urban Development, UP may also ensure that the concerned Development Authorities in the State follow the Master Plan and file periodical reports to that effect.

8. An action taken report as on 30.06.2021 may be furnished by the Principal Secretary, Housing and Urban Development, UP to the Oversight Committee headed by the Justice S.V.S. Rathore, former Judge of Allahabad High Court, who may convey its suggestions for the authorities and if necessary, send a report to this Tribunal.

The applications are disposed of.

A copy of this order be forwarded to the Principal Secretary, Housing and Urban Development, UP. And Justice V.S. Rathore, former Judge, High Court of Allahabad by e-mail.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

January 19, 2021
O.A. Nos. 999/2019 & 380/2018
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