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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CONT.CAS(C) 851/2021 & CM APPL. 8253/2022, CM APPL.
21573/2022, CM APPL. 29368-29369/2022

NEERAJ SHARMA

..... Petitioner

Through: Mr. Aditya N. Prasad, Adv. (Through
VC).

Versus

VINAY SHEEL SAXENA & ORS.

..... Respondents

Through: Mr. Kamal Mohan Gupta, Mr. Amber
Shehbaz Anasri and Mr. Gorakh
Nath Yadav, Advs. for R-1.

Mr. Avishkar Singhvi, Mr. Naved
Ahmed, Mr. Vivek Kumar and Mr.
Deokinandan Sharma, Advs. for
GNCTD.

Mr. Jatan Singh, Court
Commissioner.

Mr. Sanjay Mishra and Mr. Stuti
Mishra, Advs. for R-4 along with R-4
in person.

Mr. Anupam Verma, Mr. Nikhil
Sharma & Mr. Aditya Dhingra, Advs.
Mr. Sarosh, Adv. for CFD.

Mr. Rishikesh Kumar (ASC-GNCTD)
with Ms. Sheenu Priya, Mr. Atik Gill,
Mr. Sudhir Kumar Shukla, Mr. Sudhir
& Mr. Sumit Choudhary, Advs.

Mr. Udit Malik, ASC (Civil) for
GNCTD with Mr. Vishal Chanda,
Adv.

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Date of Decision: 16th January, 2024



CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present contempt petition had been filed alleging willful and deliberate disobedience of the judgment of this court dated 19th September, 2007 in *W.P.(C) No. 1772/2007, Kalpavriksh v. Union of India & Ors.*; Order dated 10th February, 2010 in *W.P.(C) No. 11162 of 2009, S. C. Jain v. Union of India & Anr.* and Order dated 19th January, 2021 in *Cont.Cas(C) 660/2020*, titled as *New Delhi Nature Society v. Shri Vinay Sheel Saxena and Ors.*
2. The present contempt petition also alleges disobedience of order dated 23rd April, 2013 passed by the National Green Tribunal, Principal Bench, New Delhi in *O.A No. 82/2013*, titled as *Aditya N Prasad & Ors. v. Union of India & Ors.* and the restraining order dated 07th October, 2021 of the Tree Officer.
3. Mr. Jatan Singh, Learned Court Commissioner has handed over copy of status report dated 16th January, 2024. He submits that BSES Rajdhani Power Limited had been directed to plant 500 trees near the Mathura Road and 1500 trees in South and West Delhi. Thus, there were directions to plant 2000 trees by the BSES Rajdhani Power Limited. He submits that pursuant thereto, 2011 trees have been planted by the said department.
4. Learned counsel appearing for respondent no.4 also submits that there were directions to respondent no.4 to plant 100 trees. He submits that on account of the same, the respondent no.4 has planted 183 trees.
5. Learned counsel appearing for respondent nos. 1 to 3 also submits that



compliance of the various directions passed by this court, have already been made.

6. Per contra, learned counsel appearing for the petitioner refers to the order dated 24th May, 2023, wherein, there were directions to the respondent no.1- Public Works Department (“PWD”) to carry out curving/realignment of the drain for the purposes of facilitation of plantation of trees at the sight in question. Thus, he submits that compliances are yet to be done by the respondent.

7. Responding thereto, learned counsel appearing for respondent no.1 submits that the said realignment of the drain was done and the trees were planted. He further submits that affidavit in this regard was filed in other connected contempt petition, being *Cont.Cas(C) 660/2020*, which pertained to the area of Lodhi Road.

8. This court has perused the various orders passed by this court, which clearly show that substantive compliances have been undertaken by the respondents. The respondents have also tendered their unconditional apology to this court for delay in the compliances in terms of the aforesaid orders.

9. It would be relevant to refer to the order dated 29th May, 2023 passed by this Court, which reads as under:

“xxx xxx xxx

3. In view of the above, the court remits the sentence against R-1, R-2 and R-3 under the Proviso to S.12 (1) of the Contempt of Courts Act, 1971.

4. At this stage, the learned counsel for R-1 to R-3 submits upon instructions, that visible and legible signages shall be put as a caution and reminder to all, that the trees were planted as an apology to the Court, therefore, in essence it is a Maafinama to Delhi High Court. He submits that some such signages shall be put



up along i) the Supreme Court to Sundar Nagar stretch of Mathura Road; ii) on each of the traffic islands abutting the Lodhi Road Flyover; iii) next to the Metro Line near Jamia Millia Islamia University and iv) any other place where plantation has been carried out. Let R-1 to R-3 file affidavits along with photographs of what may have been accomplished, before the next date.

5. Apology (Maafi) when expressed sincerely, promptly and with contrition in due measure, often brings about peace and closure for the parties concerned. In the present case, plantation of trees by the contemnors is a manifestation of their atonement towards also society at large, for having cut down and/or damaged a number of trees. The larger purpose of compliance of the court's orders has been served by the contemnors, who include a former Executive Engineer-In-Chief, a former Executive Engineer and a serving Executive Engineer. A large number of trees having a minimum nursery life of three years and a height of over 10 ft. were planted by R-1 to R-3 in the months of July and August 2022. The resultant tracts of greenery nurtured opposite the Supreme Court of India and along large stretches of Mathura Road, as well as near the Lodhi Road Flyover, now have healthy trees which are about four years old. The remedial measures taken by the contemnors is evident from the photographs filed by them. Some of which have been reproduced hereinabove. The trees would be a reminder to all that the Rule of Law must prevail and court orders have to be obeyed. They also assert the social virtue and moral value of an apology.

xxx xxx xxx”

10. This court also notes the order dated 11th July, 2023 passed by this court, wherein it is categorically recorded that respondent no. 1 planted 6000 trees in Delhi. The relevant portions of the order dated 11th July, 2023 reads as under:

“6. Apropos the remission of the sentence of Mr. Vinay Sheel Saxena/R-1 and other officers of PWD on 29.05.2023, it has been brought to court's notice that Mr. Vinay Sheel Saxena has planted roughly 6,000 trees in Delhi. The volume and effect of his work has grown in some measure over the past months and has set standards for tree plantation by PWD to be emulated by his colleagues, for the rest of the city. His remedial work is appreciable. Therefore, his remitted sentence and that of other officers, shall not come in the way of their respective career progression and post-retiral



benefits.”

11. Thus, it is seen that remedial measures have been undertaken by the respondents in the form of planting trees all around Delhi. In fact, this court has also placed on record the appreciation for the respondents for taking steps in increasing the green cover in Delhi.

12. This Court also records the submission made by learned counsel appearing for respondent no.1-PWD that the de-concretization around the trees has been undertaken in a substantive manner. He further submits that wherever damage of trees had been done inadvertently by the respondents, remedial measures for plantation of trees have already been taken under the directions of this court.

13. It is to be noted that in matters relating to civil contempt, a contemnor may be provided with an opportunity to purge the contempt alleged. Thus, when remedial measures have been undertaken and substantive compliances have been made to the order or judgment in contempt, this Court will not proceed with the contempt proceedings. Thus, in the case of ***Pravin C. Shah Versus K.A. Mohd. Ali and Another, (2001) 8 SCC 650***, the Supreme Court has held as follows:

“xxx xxx xxx

23. Now we have to consider the crucial question — how can a contemnor purge himself of the contempt? According to the Disciplinary Committee of the Bar Council of India, purging oneself of contempt can be done by apologising to the court. The said opinion of the Bar Council of India can be seen from the following portion of the impugned order:

“Purging oneself of contempt can be only by regretting or apologising in the case of a completed action of criminal contempt. If it is a case of civil contempt, by subsequent compliance with the orders or directions the contempt can



be purged of. There is no procedural provision in law to get purged of contempt by an order of an appropriate court.”

.....

26. Obeying the orders of the court would be a mode by which one can make the purging process in a substantial manner when it is a civil contempt. Even for such a civil contempt the purging process would not be treated as completed merely by the contemnor undergoing the penalty imposed on him unless he has obeyed the order of the court or he has undone the wrong. If that is the position in regard to civil contempt the position regarding criminal contempt must be stronger. Section 2 of the Contempt of Courts Act categorises contempt of court into two categories. The first category is “civil contempt” which is the wilful disobedience of the order of the court including breach of an undertaking given to the court.....

xxx xxx xxx”

14. In view of the aforesaid, no further orders are required to be passed in the present petition.
15. The notice of contempt issued to the respondents is accordingly discharged.
16. The conviction of respondent no.4 is set aside, in view of the compliances already made and the remedial measures undertaken.
17. The present contempt petition is accordingly, disposed of.

**(MINI PUSHKARNA)
JUDGE**

JANUARY 16, 2024/kr