



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: September 27, 2023**
Pronounced on: October 05, 2023

+ **LPA 637/2023**
SHRI RAMLEELA COMMITTEE, JANAKPURI & ANR.

..... Appellants

Through: Mr. K.K. Manan, Sr. Advocate
with Mr. Sanjay Rathi, Ms. Uditi
Bali, Mr. Ajit Singh, Ms. Kanishka
& Ms. Karmanya, Advocates.

versus

RISHU KANT SHARMA & ORS.

..... Respondents

Through: Mr. Kanwal Chaudhary, Advocate
for R-1. Ms. Pratima N. Lakra,
CGSC for R-2 Mr. Mukesh Gupta,
Standing Counsel with Mr. Raghav
Gupta & Mr. Ishant Sehrawat,
Advocates for MCD. Ms. Manika
Tripathy, Standing Counsel for
DDA.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT

NEENA BANSAL KRISHNA, J

WE ARE CHOKING!!

1. That is the cry of the citizens of Delhi who in the past few years have seen the Air Quality Index skyrocket to toxic levels that it has almost become difficult to survive and is followed by various maladies



like Asthma, allergies and so on and so forth. The residents of Delhi are gasping for breath which makes it a duty not only of the Government Agencies, but also requires concerted effort of every individual to make an endeavour to save the city and each be the active brigade of “*Saviours Of Nature*”. The concerns towards the Environment have been resonated in the Policy Making by every concerned instrumentality and has been echoed by the Courts at every level by taking every possible step including tree plantation. This concern also finds mention in the Master Plan, Delhi-2021 (*hereinafter referred to as “MPD 2021”*), wherein it has been observed that Delhi has a much larger green cover than any of the other metropolitan city in the country, and could well be called a “Green City”. The green / recreational use constitutes 8,722 hectares of land as per MPD 2001, which is around 19% of the total urban land area of 44,777 hectares. This includes 1577 hectares under the Northern, Central and South Central Ridge (the remaining area of the Ridge is in the rural area). The balance area under recreational/ green use i.e. 7145 hectares is in the form of District Parks, City Parks, Community Parks etc. comprising around 15% of the total urban land area. As per the norms, in the urban extension, the green cover is to be provided at the rate of 15% of the total land excluding Ridge/ Regional parks. Therefore, the development of the area’s facilities meant for recreational purposes is created by ensuring that the green areas are not disturbed.

2. While it needs no reiteration that fresh air, oxygen and healthy environment is the lifeline for survival of individuals, however, being the social beings, the socio-cultural activities are equally essential part for human co-existence. Concerns have been voiced that while holding such



socio-cultural religious programmes in the District Parks leads to environment pollution, traffic congestion and also causes serious damage to the trees and the green belt cultivated strenuously over a period of years. But the significance and importance of these socio-cultural activities cannot be ignored or over looked. What in fact, is a matter of concern is not a ban of these activities but to work out the mechanism to ensure that the programs are held in a regulated manner without causing any harm or damage to the environment.

3. The appellant herein Shri Ram Leela Committee, Janakpuri, in its petition had stated that they have been celebrating Dussehra since last more than 30 years in the *District Park*, Janakpuri with due permission from the Land Owning Agency i.e. DDA and they have been complying with all the terms and conditions regarding cleanliness and environment. So much so that the *district grounds* have been named as Dussehra Ground by DDA due to the popularity of these functions. It is stated that the Dussehra Ground is an open space and not a park and since beginning, is being used as a *Multipurpose Ground*. The recent photographs also show that it is a barren ground with no grass or trees. The appellant in any case by holding its Ram Leela, has never caused any harm to any tree and shall not do so even in future.

4. The appellant states further that the decoration, water proofing, erection of pandals and other requisite arrangements and dress rehearsals take about 15 days; event *Dussehra* takes 10 days followed by dismantling which takes about 5 days. The Dussehra/ Ram Leela had been held in the year 2018 and 2019 with the permission of Division Bench of this Court which allowed it *vide Order dated 18.09.2018 in LPA*



No.535/2018 and *Order dated 01.10.2019 in LPA No.653/2019* respectively. The respondent No.1/ petitioner Rishu Kant Sharma had approached the Supreme Court *vide SLP No.26625/2018* against the Order dated 18.09.2018 but the same had been dismissed *vide* Order dated 12.10.2018. The celebrations were also allowed in the year 2022 *vide* Order 02.09.2022 in the pending Writ Petition bearing *W.P. (C)No. 7266/2017* by the learned Single Judge.

5. Further, the subject ground has been allowed to be used for Jain festival of Panchkalyanak *vide* Order dated 20.12.2022 in *W.P.(C) 16000/2022* titled as *Rajender Jain & Ors. vs. DDA.*

6. The appellant has challenged the locus of the respondent No.1 on the ground that he now resides in Gurugram and his petition is motivated out of vendetta against the appellants since they regularly organize Dushehra, Ram Leela and Krishan Leela. The grounds raised in the Writ Petition are merit less since the ground is a Multipurpose Ground meant for such functions. It does not entail change of *Land Use* or *Use Zone* and the existing function site is being used for religious events only and not for commercial/ marriage purposes. Across the road i.e. Dharam Marg, lies a well maintained District Park with greenery which is enjoyed by the local residents. The Supreme Court *vide* Order dated 02.08.2021 in *Civil Appeal No.15182/2021* in the matter of *NDMC vs. President Budhela Welfare Association & Anr.* has allowed the use of parks even for the purpose of such functions. The permission was thus, sought like in previous years, to hold the Dussehra/Ramleela from 04.10.2023 to 02.11.2023.



7. The *Respondent No.3/ DDA* in its response has stated that as per MPD-2021, *Chapter 3 Delhi Urban Area-2021*, in *Table 3.3 (Hierarchy of Urban Development)* at Level-4 (District level) at Sr. No.21 **District Park** is permitted for use as (a)*Park and (b)Multipurpose Ground Park*. In *Chapter 9“Environment”*, it is mentioned in respect of multipurpose grounds in paragraph 9.4 that “*Experience shows that common parks are fouled if used for marriages/ public functions etc. Therefore, a special category is proposed to take care of the same at three levels in the following manner:*”

TABLE 9.3
Planning Norms, Standards for Multipurpose Grounds

Sl. No.	Category	Planning Norms & Standards	
		Population/Unit (Approx.)	Plot Area (Ha)
1.	City Multipurpose Ground	10 lakh	8
2.	District Multipurpose Ground	5 lakh	4
3.	Community Multipurpose Ground	1 lakh	2

8. Table 9.4 provides for “*Permission of Use Premises in Sub Use Zones*”. Out of six Use Zones under *Recreational Use*, **Multipurpose Ground** is mentioned at Sr. No.6. Accordingly, a proposal for *Use Zone Premise Change* was initiated and the matter was taken up in the *7th Technical Committee Meeting* held on 29.08.2019 *vide* Item No.30/2019, wherein it was decided that a case may be processed for seeking approval of the Authority under *Chapter 17 of MPD-2021* which in its *sub-clause 8(2)* provides for permission of use premises in Use Zones as part of approval of *Lay Out Plan* or as a case of *Special Permission from the*



Authority. It was deliberated that the area proposed as Multipurpose Ground, is already earmarked as a function ground in the approved *Lay Out Plan of District Park*. The Authority in its subsequent Meeting held on 17.09.2019 deliberated upon the proposal for change of Use Zone/ Use Premise from ‘Recreational (P2 District Park)’ to ‘Recreational (Multipurpose Ground)’ at Block-B, Janakpuri Zone-G and held it to be covered under sub-clause 8(2) of Chapter 17 of MPD-2021 which provided for “Special Permission” from the Authority. The aforesaid was approved *vide* Minutes of the Meeting F.2(2)2019/MC/DDA/135 dated 24.09.2019.

9. It is submitted vehemently that DDA has not changed the land use or the Use Zone in view of the already existing provisions in MPD-2021. It was further submitted that if this Court deems so fit and permits respondent No.3/DDA to allow the above mentioned, to use the ground as Multipurpose Ground as already ear-marked, DDA would be pleased to allow such bookings and also post the *Ground* on the internet for the purpose of booking by the public for organizing other religious and social functions in accordance with law.

10. The *respondent No.1/ petitioner Rishu Kant Sharma* has submitted that the learned Single Judge of this Court in the present Writ Petition had directed that during the pendency of the Writ no social, cultural, commercial marriage of other function etc. shall be held in the subject District Park. Despite the injunction, the appellant has sought the permission to hold the function, which is in the teeth of the Orders of the learned Single Judge. The appellant deliberately with oblique motives, does not apply for such permission for designated Multipurpose Grounds wherein such functions are permitted to be held, but seeks permission in



respect of the subject “District Park” despite the Restraint Order. The appellant is also aware that the Hon’ble Division Bench had on the previous occasions in the year 2018 and 2019 had granted permission for holding Ramleela in peculiar facts that existed then, while observing that the said permission shall not be cited as precedent. Therefore, no equities can be claimed by the Appellant in planning and organizing ‘Ramleela’ at the subject ‘District Park’ till the multiple Restraint Orders are in operation.

11. As regards DDA’s alleged applicability of Chapter 17 Sub-Clause 8(2) of MPD 2021 is concerned, a reference is made to judgment of Supreme Court on 06.12.1996 in W.P (C) 4677/1985 titled M.C. Mehta vs. Union of India 1997 (6) SCALE 13, wherein the Supreme Court directed that by the end of December, 1997 the use of parks for marriage etc. shall be reduced by 50%. The Authorities were directed to file an affidavit stating progress in the project for construction of Community Halls and also stop the use of parks for marriage etc. by the end of December, 1997.

12. The Division Bench of this Court in W.P. (C) 8582/2009 *vide* Order dated 02.09.2009 directed that beyond the 31.12.2014, the said 24 parks under DDA’s jurisdiction shall not be used for social, cultural, and marriage functions.

13. It is asserted that despite aforesaid decision, the DDA has continued to let out the District Park, Janakpuri, New Delhi for social, cultural and marriage and other religious functions and has not been maintaining the aforesaid District Park as a park. Over the period of



years, volume of vehicular traffic has increased and the area would choke if the function is permitted to be held in the District Park.

14. **Learned counsel on behalf of the respondent No. 1** has further submitted that under the MPD-2021, the “*Multipurpose Ground*” being the category different from the District Park, is prescribed in Clause 9.4 of MPD-2021 and the activities permitted to be carried out to multipurpose grounds in specifically defined therein and the said District Park cannot be permitted to be used for any other activity. This is reflected in the Order dated 03.08.2018 of the learned Single Judge and again in the Order dated 11.07.2019 of the learned Single Judge, wherein the DDA was cautioned and directed to ensure the strict compliance of the interim Order dated 03.08.2018.

15. It is further asserted that the General Secretary of the appellant i.e., Confederation of Janakpuri Associations and Shri Ramleela Committee has used his political clout to get the category of subject District Park changed to Multipurpose Ground. This is fully corroborated by the Minutes of the Technical Committee dated 29.08.2019 which records that the proposal for change of use zone/premise of District Park, Janakpuri was placed before the Technical Committee on the request of Mayor, South Delhi Municipal Corporation. If DDA is permitted to adopt such process of change of use zone/premise of District Park, it would be in the teeth of Orders passed by the learned Single Judge of this Court.

16. Furthermore, even if it is assumed that the DDA has the power to process the change and use zone/premises of District Park under Rule 12 of the Delhi Development (Master Plan and Zonal Development Plan) Rules, 1959, (*hereinafter referred to as “DD Rules, 1959”*) it requires



prior permission of the Central Government and it cannot take effect without such approval. The DDA, during the course of arguments on 26.09.2023, was directed to produce the permission of the Central Government, while exercising its power under Rule 12 of the DD Rules, 1959. However, no such permission has been placed on record; rather shelter has been taken under Chapter 17 of MPD-2021 Clause 8(2) of MPD-2021 to contend that no such permission is required.

17. The invocation of Chapter 17 of the MPD-2021 is wholly misconceived, misrepresented, mischievous and absurd. Assuming that the powers were exercised under Chapter 17, even then C2 categories, City Park, District Park and Community Park cannot be dealt with under the said Chapter. The change of use of designated District Park to Multipurpose Ground amounts to modification of Master Plan and the Zonal Development Plan which can be only done in terms of Section 11A of the Delhi Development Act, 1957 (*hereinafter referred to as "DD Act, 1957"*). Hence, the DDA has no jurisdiction to resolve contrary to Master Plan.

18. Respondent No.1/ petitioner has placed reliance on the judgments of the Division Bench of this Court in the case of S.S.Jain Sabha Regtd. vs. Govt of N.C.T. of Delhi 129 (2006) DLT 800 (DB) and Delhi Science Forum vs. DDA 112 (2004) DLT 944 (DB).

19. **Submissions heard from Ld. Counsel for all the Parties and Written Submissions also perused.**

20. Before considering the facts in hand, it is pertinent to first refer to the relevant provisions of the DD Act, 1957. **Chapter 3 of the DD Act, 1957** deals with the Master Plan and Zonal Development Plan.



Section 7 of the DD Act, 1957 provides that the *Master Plan* shall define the various zones into which Delhi may be divided. *Section 8* provides that the *Zonal Development Plan* may be simultaneously prepared along with the preparation of the Master Plan or thereafter. In the Zonal Development Plan, each of the zones into which the Delhi may be divided, may be demarcated. It may contain the *site-plan and user-plan* for the development of zones and show the approximate location and extent of the land uses proposed in the zones, including utilities, schools, hospitals public and private places and other categories of public private use. *Section 9* states that the plans so prepared shall be submitted to Central Government for approval. In terms of *Section 11* immediately after the plans have been approved by the Central Government, the Authority shall publish it in such manner as may be prescribed.

21. **Chapter 3A** of the DD Act 1957, provides for the procedure to be followed for *Modifications to the Master Plan and the Zonal Development Plan*. *Section 11A(1)* enables *the Authority* to make any modifications to the Master Plan or the Zonal Development Plan which in its opinion, does not affect important alterations in the character of the plan and which do not relate to the extent of land use or the standards of population density. Central Government is similarly empowered under *Section 11A(2)* to make any such modifications to the Master Plan or Zonal Development Plan where such modifications are of the nature specified in sub-section (1) or otherwise. The Procedure to be followed by the Central Government is provided in the subsequent sub sections from Sub-section 3 to Sub-section 7. These provisions laying down the



procedure for preparing, amending and modifying the Master Plan or the Zonal Development Plan are complemented by DD Rules, 1959.

22. The DD Act, 1957 therefore, provides for the ten year development Master plan for dividing Delhi into various zones and Master Plan provides the use to which the different zones can be put. There are therefore, two kinds of demarcations; one is of defining the *zones* and the other is *the use* to which the defined zones can be put.

23. The MPD-2021 in its ***Clause 4.0 of Chapter 17 Development Code***, designates the Use Zones into nine categories like residential, commercial, industrial, recreational, transportation, utility, Government, Public and semi-public facilities and green belt/ and water body. The land use zone ***“Recreational”*** is further divided into three sub-categories namely:

P-1 Regional Park,

P-2 City Park, District Park and Community Park and

P-3 Historical Monuments.

24. The ***“District Park”*** is defined in ***Clause 3.2.2 Hierarchy of Urban Development of Chapter 3.Entry 4 of Table 3.3.*** provides at *Sr. 21* that the District Park shall have a total area of 2,90,000 Sq. Mtrs. In this District Park, the area of 2,50,000 Sq. Mtrs. shall be used as a park while 40,000 Sq. Mtrs. can be used for Multipurpose Ground/ park. ***Chapter 9*** which deals with ***“Environment”***, in its ***Table 9.4*** defines “Multipurpose Grounds”. It observes that *“Experience shows that common parks are fouled if used for marriages/ public functions etc. Therefore, a special category is proposed to take care of the same at three levels in the following manner.”* The three categories enumerated



therein are: *Multipurpose Grounds, District Multipurpose Grounds and Community Multipurpose Grounds*. Further, **Table 9.4** further defines “*Permission of Use Premises in sub-use Zones*” wherein, **Entry 4** provides that ***District Parks*** may be permitted to be used for *Clean Park, Recreational Park, National Memorial, Open Air Food Court, Children Park, Orchard Plant Nursery, Area for water harvesting, Archaeological Park, Specialized Park, Amusement Park, Children Traffic Park, Sports activity, play ground, amenity structure, Restaurant* in District Park having an area above 25 hectare, is also permitted subject to the requirements stated therein. **Entry 6** provides ***Multipurpose Grounds*** may be used for *public meeting ground/ public address podium/ social function/ soft drink and snacks stalls etc.*

25. The various provisions of the DD Act, 1957 r/w. Rules 1958 and MPD-2021 as mentioned above, make it evident that Delhi is defined into various zones like residential, commercial etc. where one of the zone defined is that of the “***Recreational Park***” which includes setting up of City Park, District Park and Community Parks. It further defines that District Park should have an area of 2,90,000 Sq. Mtrs., out of which 2,50,000sq.Mtrs. shall be used singularly as a Park, while area of 40,000 Sq. Mtrs. may be used as Multipurpose Ground. In the ***Multipurpose Ground*** various activities like public functions etc. may be permitted to be carried out. Therefore, MPD-2021 has been finalized and notified by the Central Government in exercise of the powers by invoking Section 11A(2) of the DD Act, 1957 which is done after obtaining the prior approval of Ministry of Urban Development. If the zones are intended to be used in accordance with the provisions of MPD-2021, the permissions



shall also be governed by the procedures as provided in Chapter 17 of the MPD-2021.

26. The basic concern of respondent No.1 has been that despite such minute planning, the District Parks which are the lung spaces of every colony, are being choked by being permitted to be used for other activities. However, as already discussed above, the use of 40,000 Sq. Mtrs. out of the District Park are permitted under the Plan itself to be used as Multi-purpose Grounds.

27. The learned Counsel on behalf of respondent No.1 had claimed that use of District Parks as Multipurpose Grounds amounts to modification of the Master/ Zonal Development Plan and this cannot be done without following the procedure as laid down in Chapter 3A of the DD Act, 1957 , which requires prior approval of the Central Government. Further grievance of the respondent No.1 is that even if it is to be considered as the Use Zone change, to which Rule 12 of DD Rules, 1959 applies, which also provides for the prior approval of Central Government.

28. These submissions on behalf of the respondent No.1 do not hold any merit. As discussed above, it is specifically provided in the MPD-2021 itself that 40,000 Sq. Mtrs area out of 2,90,000 Sq. Mtrs., (which should be the area of District Park) can be used for Multipurpose Ground. This aspect also finds mention in the Minutes of the Technical Committee. It was noted that the “*Landscape plan of Green area opposite Musical Fountain, Janakpuri, Dussehra Park*” was prepared by the Landscape Wing, DDA and approved by EM, DDA vide file No.PA/Dir (LS)/2002/393 dated 10.09.2002. As per this Landscape Plan, 2.62 Ha has been utilized for two function sites (*Function Site No.1 – 0.62 ha and*



Function Site No.2 – 0.6 ha). The Landscape Plan of Green Delhi opposite Musical Fountain, Janakpuri Dussehra Park prepared by Landspace Wing, DDA shows that as per MPD-2021 the total area of the scheme is shown as 2.62 hectares (6.47 acres). Even though as per the Order issued by the Director (Horticulture) *vide* letter F.No.DHNW (Misc.) Hort. NW/2018 dated 20.11.2018 total area is reflected as 10 acres when in fact the area of this District Park shows only 2.62 hectares i.e. 6.47 acres. ***This area is shown in the Layout Plan of District Park as approved by MPD-2021, as a multipurpose ground.***

29. Since the MPD-21 which is duly notified with due approval of the Central Government, ***Chapter 17 Sub-clause 8(2) of MPD-2021*** becomes applicable which provides for special permission of Use Premises in Use Zones from the Authority and no additional permission of Central Government is required.

30. It was not disputed that this plot of land is lying barren and has no grass and has a few trees around the periphery, apparently since it has been intended to be used as a Multipurpose Ground and has always been so used. It has further not been denied that right in front of this park across the road, is a much bigger District Park which is being used exclusively as a District Park and no function of any kind are being permitted to be held in the said District Park. *Prima facie*, it appears that while the major portion of the park is being used as District Park, a small portion of that area is being used a *Multipurpose Ground*, as is reflected in MPD-2021. The entire confusion has arisen because this part of ground is being considered as a District Park which appears to be distinct and exists opposite this Multipurpose Ground. However, without going



into this controversy and also considering that the matter is pending before the learned Single Judge to be considered on merits, no final expression on merits is expressed.

31. Admittedly, Shri RamLeela has been permitted to be held, without creating any equities or precedent, by way of Interim Orders by Division Bench in 2018 as well as 2019 and by the learned Single Judge in the year 2022, because of the peculiar circumstances, as the appellant has been conducting Ramleela on the same ground for the last about 30 years.

32. Considering that the similar situation prevails even today and there is no change in the circumstances since the previous Orders made in this regard, the permission is granted to the appellants to host Dussehra/Ramleela celebrations on this ground for this current year i.e. 2023 from the date of this Order till 30.10.2023. It is further directed that the Dussehra Mela shall be held in accordance with all the norms applicable as well as by taking all the precautions including safety, traffic, fire arrangement, etc. The appellants shall ensure that no damage or harm is caused to the green cover/ trees already existing in the ground. A concern has been expressed that despite repeated directions of this Court this area continues to be barren with a few trees planted around it. This Order does not in any way vary the directions given by the learned Single Judge in the impugned Order dated 18.08.2023 to the DDA/ Dy. Conservative Forests to plant trees in the part and to take steps for its beautification for the welfare of the residents of the colony.

33. It is hereby reiterated that nothing stated herein is an expression on the merits of this case and is confined to the specific issue of grant of permission to hold the Ramleela for the dates as specified.



34. We accordingly dispose of the Appeal.

**(NEENA BANSAL KRISHNA)
JUDGE**

**(SURESH KUMAR KAIT)
JUDGE**

OCTOBER 5, 2023
Va/Jn