

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.12213/2019

[Arising out of Impugned Final Judgment and Order dated 20-02-2019 in WP(C) No.4099/2018 passed by the High Court of Delhi at New Delhi]

RAJEEV SURI

Petitioner(s)

VERSUS

ARCHAEOLOGICAL SURVEY OF INDIA &amp; ORS.

Respondent(s)

[IA No.78852/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT]

Date : 27-08-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH  
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Rajeev Suri, Petitioner-in-Person

Mr. Shikhil Shiv Suri, Sr. Adv.  
Mr. T.R.B. Sivakumar, AoR

For Respondent(s) Mr. Amrish Kumar, AoR

Ms. Aishwarya Bhati, ASG  
Mr. Shreekant Neelappa Terdal, AoR

Mr. Rakesh Sinha, Adv.  
Mr. Arvind Gupta, AoR  
Mr. Md. Ghulam Akbar, Adv.  
Mr. Jeemon Raju K., Adv.  
Ms. Shruti Shashi, Adv.  
Mr. Sushant Shekhar, Adv.

Mr. Shubhranshu Padhi, AoR  
Mr. D. Girish Kumar, Adv.  
Mr. Jay Nirupam, Adv.  
Mr. Pranav Giri, Adv.  
Mr. Ekansh Sisodia, Adv.  
Ms. A.M. Harsavardhini, Adv.

UPON hearing Counsel, the Court dictated the following  
**O R D E R**

Heard the petitioner in-person and learned counsel for the parties.

**IA No.78852/2019**

2. Exemption from filing Certified Copy of the Impugned Judgment<sup>1</sup> is granted; IA No.78852/2019 is allowed.

**SLP (C) No.12213/2019**

3. The Petitioner had moved the Delhi High Court (hereinafter referred to as the 'High Court') by way of a writ petition under Article 226 of the Constitution of India (hereinafter referred to as the 'Constitution') for, in essence, the protection of a *Gumti*, which he contends, is a monument situated in Defence Colony, New Delhi under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (hereinafter referred to as the 'Act'). The petition viz. Writ Petition (Civil) No.4099/2018 was dismissed by a Division Bench of the High Court on 20.02.2019. Aggrieved, the Petitioner has approached this Court under Article 136 of the Constitution.

4. The brief facts are that on 09.02.2004, vide Gazette Notification S.O.183(E), Respondent No.2/Central Government (Union of India) gave notice of its intention under Section 4(1)<sup>2</sup> of the Act to declare the *Gumti* to be of national importance. Objections to such declaration were sought within a period of 2 months. On 07.04.2004, Respondent No.4/Defence Colony Welfare Association (hereinafter referred to as 'DCWA') objected to the proposal, which

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<sup>1</sup> Reported as 2019 SCC OnLine Del 7227.

<sup>2</sup> '4. Power of Central Government to declare ancient monuments, etc. to be of national importance.—(1) Where the Central Government is of opinion that any ancient monument or archaeological site and remains not included in Section 3 is of national importance, it may, by notification in the Official Gazette, give two months' notice of its intention to declare such ancient monument or archaeological site and remains to be of national importance; and a copy of every such notification shall be affixed in a conspicuous place near the monument or site and remains, as the case may be.'

was forwarded to the Director General, Archaeological Survey of India (hereinafter referred to as 'ASI') by the Superintending Archaeologist, ASI, Delhi Circle (hereinafter referred to as the 'Superintending Archaeologist') on 21.04.2004. On 15.05.2004, the Director General's office sought the Superintending Archaeologist's comments on the DCWA's objections.

5. On 29.06.2004, the Superintending Archaeologist reverted to the Director General, ASI. The comments offered by the Superintending Archaeologist lead nowhere - 2 points from the DCWA's objections are noted and it is stated that the *Gumti* has been in the DCWA's occupation and additions/alterations have been made over time, which may be considered before issuing the confirmatory notification under the Act. Thereafter begins a long chain of correspondence intra-ASI, which we have perused. Sometime, in the year 2008, as noted in the Impugned Judgment, the Central Government decided that the *Gumti* could not be declared as a monument of national importance as major additions/alterations had been made by the DCWA who had been using it as its office leading to the *Gumti* losing its originality.

6. We are surprised at the turn of events. In the year 2004, the competent body to recommend declaration of a structure as a monument of national importance *viz.* ASI favoured so doing, based on the Superintending Archaeologist's comments *supra*, but later the ASI reports that as alterations had been made by the DCWA while occupying the structure, the *Gumti* had lost its originality. From the note accompanying the letter dated 15.02.2008 addressed to the Superintending Archaeologist by the Director (Monuments), it emerges that the Secretary, Culture had already previously noted "*It however not be feasible for the ASI to protect it as a centrally protected monument.*" (sic) This creates doubt on the *bona fides* of the ASI as also the Central Government, insofar as proper processing of the original proposal is concerned.

7. Be that as it may, we deem it fit that the Central Bureau of Investigation (hereinafter referred to as the 'CBI') be entrusted to initiate a Preliminary Enquiry on the following aspects:

(i) How and under what circumstances the *Gumti* came to be occupied by the DCWA, as claimed, from "1963-64"?

(ii) How and under what circumstances, when the Central Government and ASI had initially recommended that the *Gumti* be declared a protected monument, only on the purported basis of alterations/additions having been made by the DCWA and the sole objection submitted by it, both ASI and the Central Government changed their stands?

(iii) How and under what circumstances and on whose authority were additions/alterations made to the *Gumti*?

(iv) Why appropriate steps were not taken and by which officer/authority to prevent additions/alterations in the *Gumti*?

8. We implead the CBI *through* its Director as Respondent No.6. Memo of Parties be amended by the Registry, which shall forthwith communicate this Order to the CBI.

9. The CBI shall also consider the views of the Petitioner in the Preliminary Enquiry. Let the CBI file a report on the outcome/progress of the afore-directed exercise within 2 months from today. Needless to state, if in the interregnum, the official respondents concerned so desire, they will be at liberty to take steps to protect the *Gumti*, in accordance with law. However, in terms of Order dated 12.03.2024, no change in any manner whatsoever in the *Gumti* shall be made by any person/body till further orders. Any deviation in this regard shall entail serious consequences.

10. List the matter high on Board on 12<sup>th</sup> November, 2024.

(VIJAY KUMAR)  
COURT MASTER (SH)

(MATHEW ABRAHAM)  
COURT MASTER (NSH)