SalahuddIn Qureshi Vs. Ndmc

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Court : Delhi

Decided On : Sep-18-2008

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Judge : Vipin Sanghi, J.

Acts : Public Premises (Eviction of Unauthorised Occupants) Act, 1971 - Sections 2, 4, 5 and 7; Punjab Municipal Act, 1911; Constitution (Seventy-fourth Amendment) Act, 1992; New Delhi Municipal Council Act, 1994 - Sections 1(3), 3, 10, 11, 55 and 416; Companies Act - Sections 3; General Clauses Act; Public Premises (Eviction of Unauthorised Occupants) (Amendment) Act, 1993; Constitution of India - Articles 226, 243P, 243Q and 243ZB

Appeal No. : W.P. (C) No. 9664/2007

Appellant : SalahuddIn Qureshi

Respondent : Ndmc

Advocate for Def. : Madhu Tewatia, ; Kanika Agnihotri and ; Sidhi Arora, Ad

Advocate for Pet/Ap. : Vishwa Lochan Madan, Adv

Judgement :

Vipin Sanghi, J.

1. In this batch of writ petitions under Article 226 of the Constitution of India, a short and interesting question of law has been raised by the petitioners. The contention of the petitioners is that the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (P.P Act) does not apply to the premises belonging to the New Delhi Municipal Council (the Municipal Council), as such premises do not fall within the definition of 'public premises' contained in Section 2(e) of the P.P Act. It is urged that, consequently, the Estate Officer of the respondent Municipal Council has no jurisdiction to proceed to either evict the petitioners, who are occupying premises belonging to the Municipal Council, or to levy damages upon them by resort to the P.P. Act.

2. The petitioners have filed these petitions on account of issuance of orders of cancellation of the respective allotments made to them in Gole Market. In these cancellation orders the respondent Municipal Council has threatened the petitioners with action under Section 5 & 7 of the P.P Act. By orders passed in these petitions, the proceedings before the Estate Officer in each of these cases have been permitted to go on. However, the Estate Officer has been restrained from passing final orders. It is submitted by the learned Counsel for the petitioners that the petitioners have raised various other issues to impugn the cancellation of allotment. However, in case this Court comes to the conclusion that the P.P Act is applicable in respect of the premises belonging to the Municipal Council, and, therefore, the Estate Officer has jurisdiction, all other contentions could be raised by the petitioners before the Estate Officer. Consequently, the parties have neither addressed any other arguments in relation to the impugned cancellation orders, nor are being presently considered in this judgment.

3. Before articulating the submission of the petitioners in support of the aforesaid contention, it is necessary to take limited note of the transition of the relevant law. Earlier it was the Punjab Municipal Act 1911, which was made applicable to New Delhi. The New Delhi area was being administered by the New Delhi Municipal Committee (the NDMC) under the Punjab Municipal Act 1911. Chapter IX A was introduced into the Constitution of India by the Constitution (74th Amendment) Act, 1992 w.e.f. 01.06.1993. This chapter deals with municipalities. The provisions of Constitution (Seventy-fourth Amendment) Act 1992 were brought into force with

effect from 1st June, 1993 and the laws governing municipalities all over the country had to be harmonized in consonance with the provisions of Part IXA of the Constitution by 31st May, 1994. Consequently, an Ordinance was promulgated on 25th May, 1994 incorporating the Municipal Council. Due to increase in population and more areas falling in its jurisdiction, the Parliament considered it necessary to form the Municipal Council for New Delhi. The Parliament passed the New Delhi Municipal Council Bill and the same received the assent of the President on 14.07.1994. It came into force as the New Delhi Municipal Council Act 1994 (44 of 1994). In the aforesaid background the said Act 44 of 1994 was deemed to have come into force on 25.05.1994 by virtue of Section 1(3) thereof. Consequently, from 25.05.1994 it is the Municipal Council and not the NDMC which has been in existence. The NDMC ceased to exist upon the constitution of Municipal Council w.e.f. 25.05.1994, by virtue of Section 416 of Act 44 of 1994. By that provision the Punjab Municipal Act 1911, as applicable to New Delhi ceased to have effect within New Delhi.

4. Soon after the enactment of Act 44 of 1994, the Parliament amended the P.P Act. Amongst the various amendments, one of the amendment was in relation to Section 2(e)(3) wherein the words 'National Capital Territory of Delhi' were substituted for the words 'Union Territory of Delhi' w.e.f. 01.06.1994. Clause (iii) was added to Section 2(e)(3) whereby any premises belonging to, or taken on lease or requisitioned by, or on behalf of any State Government or the Government of any Union Territory was included within the ambit of 'public premises' in the NCT of Delhi. The definition of the term 'public premises' contained in the P.P Act, in relation to the National Capital Territory of Delhi after the aforesaid amendment reads as follows:

2. Definitions - In this Act, unless the context otherwise requires-

(a) ...

(b) ...

(c) ...

(d) ...

(e) 'public premises' means--

(1) ...

(2) ...

(3) in relation to the [National Capital Territory of Delhi], -

(i) any premises belonging to the Municipal Corporation of Delhi, or any Municipal Committee or notified area committee,

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority;] [and]

(iii) any premises belonging to, or taken on lease or requisitioned by, or an behalf of any State Government or any Union Territory.

5. The definition of the expression 'Public Premises' is relevant, since it is only in respect of 'Public Premises' that the Estate Officer has the jurisdiction to issue a notice to show cause against eviction under Section 4; to pass an eviction order under Section 5; or, impose damages against the unauthorized occupants under Section 7 of the P.P. Act.

6. The submission of learned Counsel for the petitioner Mr. V.C. Madan is that even though the P.P Act was amended on 01.06.1994, that is after the formation of the Municipal Council and cessation of the NDMC, the Parliament continued to use the expression 'Municipal Committee' and did not use or include the expression 'Municipal Council' in Clause (i) of Section 2(e)(3) of the P.P Act. Since the NDMC had ceased to exist, and the Municipal Council had taken over from the NDMC, the omission to include the expression 'Municipal Council' in addition to, or in substitution of 'Municipal Committee' in Section 2(e)(3)(i) at the time of amendment of the P.P Act on 01.06.1994 results in ousting the premises belonging to the Municipal Council from within the definition of 'Public Premises' under the P.P Act. Merely because the premises belonging the NDMC fell within the definition of 'public premises' prior to the date of enforcement of Act 44 of

1994, it is argued that it does not follow that the premises belonging to the Municipal Council would get covered by the said definition as its successor organization. Learned Counsel submits that even if the omission to include the premises belonging to 'Municipal Council' within the definition of 'public premises' is a case of casus omissus on the part of the legislature, the Court cannot, by resort to a process of interpretation supply the omission. He submits that it is the duty of the Court to interpret the laws on the assumption that the Legislature did not make a mistake and that it did what it intended to do. The Court should adopt a construction which will carry out the obvious intention of the Legislature. If there is a defect or omission in the words used by the Legislature, the Court would not go to its aid to correct or make up the deficiency. The Court would not add words to a Statute or read words into it which are not there, especially when the literal meaning produces a intelligible result. The Court cannot aid the Legislature's defective phrasing of Act or add or amend, and by construction, make up deficiencies which are there. For this proposition he relies on the Supreme Court decisions in : AIR 2001 SC2699 Dadi Jagannadham v. Jammulu Ramulu and Ors. and AIR 1992 SC 96 Union of India v. Devki Nandan Aggarwal. Counsel for the petitioner submits that the use of the expression 'means' while defining the expression 'public premises' shows that the definition is exhaustive of what the said expression means, and nothing more can be added to it. He also submits that if there is any ambiguity in a statute which contains provisions which are penal in nature, or which subject the citizens of taxation, the same should be construed strictly against the State and in favour of the citizens. The purpose of the P.P. Act is to deprive the citizens of their right to contest eviction or levy of damages under the general civil law by subjecting them to a summary procedure. Therefore, the provisions of the P.P. Act should be strictly construed against the State and in favour of the subjects.

7. In response, learned Counsel for the respondent Municipal Council, Ms. Madhu Tewatia, submits that the P.P Act does not contain a definition of the expression 'Municipal Committee'. The expression 'Municipal Committee' is, therefore, to be understood as it is used in the common parlance. For this proposition she relies on S. Samuel, M.D.Harrisons Malayalam and Anr. V. UOI and Ors. : AIR 2001 SC218 , which refers to principles of Statutory Interpretations by Justice G.P.Singh 8th

Edition page 279. She advocates the use of a contextual interpretation of the expression 'any municipal committee or notified area committee' as used in clause (i) of Section 2(e)(3) of the P.P Act and relies on Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd and Ors. : [1987]2SCR1 for that purpose. By placing reliance on the meanings ascribed the terms 'Municipal' and 'Committee' in dictionaries and on various decisions it is submitted that a 'Municipal Committee' has to be understood as an institution constituted for the purpose of administering the local self-government in a defined area. Learned Counsel for the respondent has also referred to various provisions of Act 44 of 1994 to submit that the Municipal Council is an institution of local self-government. It is argued that under Clause 2(ii) of Section 2(e) of the P.P Act, any corporation established by or under a Central Act the premises belonging, or taken on lease by or on behalf of any corporation established by or under a Central Act or owned or controlled by the Central Government is also defined to mean a public premises. However, from this category an exception has been carved out in respect of a company defined in Section 3 of the Companies Act or a local authority. 'Local authority' is not defined in the P.P Act. However, it is defined in the General Clauses Act to mean a 'Municipal Committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund'. Consequently the premises belonging to a local municipal self-government organization such as the New Delhi Municipal Council is excluded by Clause 2(ii) from within the meaning of public premises. However, the Parliament, in relation to National Capital Territory of Delhi, has specifically included premises belonging to Municipal Corporation of Delhi or any Municipal Committee or notified area committee within the meaning of public premises.

8. The purpose of enacting the P.P. Act as stated in its Objects and Reasons is to provide a speedy machinery for eviction of unauthorized occupants of public premises. Definition of the expression 'public premises' shows that the Parliament has given a very wide definition to the said expression. It covers within its sweep premises not only belonging to, but taken on lease or requisitioned by or on behalf of Central Government. It also includes premises placed by the Central Government under the control of the Secretariat of either House of Parliament for

providing residential accommodation to any member of the staff of the Secretariat of either House of Parliament. Premises belonging to, taken on lease by or on behalf of a company wherein the Central Government is having 51% or more paid up share capital or a subsidiary thereof is also included within the meaning of public premises. Premises belonging to any corporation established by or under the Central Government which is owned or controlled by the Central Government is also covered by the said definition. From this category, a company defined in Section 3 of the Companies Act is excluded, since it is already covered under the immediately preceding category of companies wherein the Central Government has paid up capital of 51% or more. Premises belonging to a 'local authority' are excluded from the aforesaid clause pertaining to Corporation. From the definition of the term 'Local Authority' aforesaid, it is clear that premises belonging to a Municipality is not covered by Clause (2) of Section 2(e) within the meaning of a 'public premises'. However, in respect of the National Capital Territory of Delhi, a specific provision has been made to say that any premises belonging to the Municipal Corporation of Delhi or any Municipal Committee or Notified Area Committee shall be a 'public premises'. The words 'Municipal Committee' or 'Notified Area Committee' are preceded by 'or any'. If the expression 'Municipal Committee' as used in the aforesaid provision only referred to NDMC, the said expression would not have been preceded by the word 'any'. The use of the expression 'any' before the expression 'Municipal Committee or notified area committee' itself shows that the expression 'Municipal Committee' and 'Notified Area Committee' have been used generally and the P.P Act itself postulates that there can be a plurality of Municipal Committee and Notified Area Committee in the NCT of Delhi. If the submission of learned Counsel for the petitioner that 'Municipal Committee' only refers to the erstwhile New Delhi Municipal Committee (NDMC) as it existed under the Punjab Municipal Act as extended to New Delhi, and that it does not include the Municipal Council, it would mean that the expression 'any Municipal Committee or notified area committee' is a surplusage. It is not the case of the petitioner that there is any other body in NCT of Delhi, (apart from the Delhi Municipal Corporation, the Municipal Council and the Cantonment Board), which could be said to be a Municipal Committee within the meaning of that term as used in Section 2(e)(3)(i). It is the generally accepted principle of interpretation that effort should be made to give meaning to each and every word used by the Legislature. Words in a statute cannot be read as inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute (See Aswini Kumar Ghose v. Arbinda Bose : [1953]4SCR1). It is incumbent on the Court to avoid a construction, if reasonably permissible on the language, which would render a part of the statute devoid of any meaning or application (See Rao Shiv Bahadur Singh v. State of U.P. : 1954 CriLJ1480). The Court always presumes that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect (See J.K.Cotton Spinning & Weaving Mills Co. Ltd v. State of U.P. : (1961)ILLJ540SC). The Legislature is deemed not to waste its words or to say anything in vain (See Quebec Railway, Light, Heat & Power Co. v. Vandry AIR 1920 PC 181). The construction which attributes redundancy to the Legislature will not be accepted except for compelling reasons (See Ghanshyamdas v. Regional Assistant Commercial, Sales Tax : [1964]51ITR557(SC)).

9. It is also a settled principle of judicial interpretation that when more than one expressions are used, the general words must be interpreted in the light of the specific words used in the same provision (see Principles of Statutory Interpretation, 9th Edition 2004 by Justice G.P. Singh, page 415 under the heading 'Noscitur A Sociis'). The general words 'Municipal Committee' or 'Notified Area Committee' would, therefore, have to be understood in the light of the earlier used specific expression 'Municipal Corporation of Delhi'. The Municipal Corporation of Delhi is undoubtedly a municipality, i.e. an institution constituted for self local government of the area falling within its jurisdiction. 'Municipal Committee' and 'Notified Area Committee' would also have to be seen in that light. The Parliament, while generally excluding 'local authorities' from the application of the P.P Act, in relation to the NCT of Delhi (of which New Delhi area is a part), specifically made the P.P Act applicable to premises belonging to the Municipal Corporation of Delhi and 'any Municipal Committee or notified area committee'. This is clearly indicative of the intention of the Parliament not to exclude all local authorities from the application of the Act. In the context in which the expression 'any Municipal Committee...' have been used, it also appears that the said expression would

cover a municipality, which includes the Municipal Council. Why is it that the Parliament decided that, in respect of NCT of Delhi, the premises belonging to the Delhi Municipal Corporation or any Municipal Committee or notified area committee should be included within the ambit of 'Public Premises'? The answer is that these are local self governmental bodies and it is in the larger public interest and in the interest of their efficient functioning that these bodies should be in a position to evict the unauthorized occupants and recover damages from them in relation to premises belonging to them in an expeditious manner by resort to a summary procedure. Viewed in this light, it is difficult to accept that the Municipal Council, which is also a Municipality like the MCD, should be left out of the ambit of the P.P Act. In Reserve Bank of India (supra), the Supreme Court observed

37. Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. It is by looking at the definition as a whole in the setting of the entire Act and by reference to what preceded the enactment and the reasons for it that the Court construed the expression 'Prize Chit' in Srinivasa and we find no reason to depart from the Court's construction.

10. Various State enactments dealing with the subject to eviction of unauthorized occupants have been produced by the petitioners. Pertinently, practically all of them have made the State enactments applicable to the local authorities within the

States. There is no reason to exclude the Municipal Council from the applicability of the P.P. Act by an indirect and inferential manner of interpretation, and by ignoring the meaning of the terms and expressions used in the Statute.

11. Article 243P of the Constitution, inter alia, defines 'Municipality' to mean 'an institution of self-government constituted under Article 243Q'. Article 243Q states that there shall be constituted in every State, inter alia, 'a Municipal Council for a smaller urban area' and 'a Municipal Corporation for a larger urban area'. Therefore, both a Municipal Council and Municipal Corporation are municipalities, constituted as institutions of self-government. The character and attributes of a Municipal Corporation and a Municipal Council are the same, and both are Municipalities, but the Constitution, for the purpose of distinguishing a larger municipality from a smaller one calls the former a Municipal Corporation and the later Municipal Council.

12. The expression 'Committee' is defined in the Black's Law Dictionary as 'a group of people appointed for special function by (and usually out of) larger body'. 'Municipal' is defined as 'a municipality or its self-government'. 'Municipality' is defined as 'town or district or local self-government; its government body'. The expression 'Committee' as defined in the Oxford English Dictionary, inter alia, means 'a person, or an assembly or board of persons, to whom the consideration, determination, or management of any matter is committed or referred, as by a court or legislature. An individual or body to whom others have delegated or committed a particular duty, or who have taken on themselves to perform in it the expectation of their act being confirmed by the body they profess to represent or act for.'

13. The expression 'Municipal Committee', therefore, is generally understood as an assembly or board of persons constituted for the purpose of administration of a local self government. It is understood as a 'Municipality'.

14. In MCD v. Birla Cotton, Spinning and Weaving Mills (1968) 2 SCR 251, the Supreme Court observed:

Local bodies are subordinate branches of governmental activity. They are democratic institutions managed by the representatives of the people. They function for public purposes and take away a part of the government affairs in local areas. They are political sub-divisions and agencies which exercise a part of State functions. As they are intended to carry on local self-government the power of taxation is a necessary adjunct to their other powers. They function under the supervision of the Government.

15. In Union of India v. R.C. Jain : (1981)ILLJ402SC the Supreme Court observed:

What then are the distinctive attributes and characteristics, all or many of which a Municipal Committee, District Board or Body or Port Commissioners shares with any other local authority? First, the authorities must have separate existence as corporate bodies. They must not be mere governmental agencies but must be legally independent entities. Next, they must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the inhabitants of the area. Next, they must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably but, an appreciable measure of autonomy there must be. Next, they must be entrusted by statute with such governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage, town planning and development, roads, markets, transportation, social welfare services etc. etc. Broadly, we may say that they may be entrusted with the performance of civil duties and functions which would otherwise be governmental duties and functions. Finally, they must have the power to raise funds for the furtherance of their activities and the fulfillment of their projects levying taxes, rates, charges, or fees. This may be in addition to moneys provided by Government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority.

16. In the light of the aforesaid decisions, I now proceed to consider the question whether the Municipal Council is a municipality.

17. The Statement of Objects and Reasons appended to the New Delhi Municipal Council Bill, inter alia, states:

This Act purports to replace the Ordinance through which NDMC area has been provided a new law for its local self governance. The New Delhi Municipal Committee was constituted under the Punjab Municipal Act, 1911 which has become an archaic piece of legislation. The Committee on the Reorganisation of Delhi set-up had recommended that a fresh law governing NDMC should be passed by the Parliament for proper organization and functioning of the New Delhi Municipal Council. Consequent upon enforcement of Constitution (Seventy fourth Amendment) Act, several provisions in Punjab Municipal Act, 1911 had to be brought in tune with Part IXA of the Constitution before 31st May, 1994.... The following are the more important objectives of the Act:

(i) to provide New Delhi Municipal Council area with a new legislation repealing the Punjab Municipal Corporation Act, 1911.

(ii) ...

(iii) to harmonise the law with the Constitution (Seventy-fourth Amendment) Act, 1992 with necessary exemptions and modifications under Article 243ZB of the Constitution wherever departure has had to be made from the constitutional provisions....

2. The National Capital Territory of Delhi (NCT) comprises three local bodies, MCD, NDMC and Cantonment Board.... In respect of New Delhi Municipal Council, which consists of only 3 per cent of the area and 3 per cent of the population of National Capital Territory of Delhi, it was felt that a different kind of legal system had to be structured which took into account special characteristics of the New Delhi Municipal Council area. The New Delhi Municipal Council area comprises the territory that has been described as Lutyens' Delhi and which has historically come to be regarded as a seat of central authority in Union of India. It comprises important buildings like Rashtrapati Bhavan, Parliament House, Supreme Court, North and South Blocks and buildings abutting Central Vista and also all diplomatic missions which function as territorial entities under the sovereign

jurisdiction of their Flag States. The Government of India are nearly the sole landowners and also own about eighty per cent of the buildings in the New Delhi Municipal Council area. Private ownership of property in this area is marginal. On account of these special characteristics, it was felt that any scheme for the governance of this area based on conventional pattern of representative local self-government, would be unworkable and out of place since the pre-eminent character of this area is that of the seat of the Central Government.

3. Accordingly, a special legislation has been structured for New Delhi Municipal Council area.

18. Section 3 of Act 44 of 1994 states that with effect from such date as the Central Government may appoint, there shall be a Council charged with the municipal Government of New Delhi, to be known as the New Delhi Municipal Council. The Council shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by the said name sue and be sued. Section 4 deals with the composition of the Council. The Council, inter alia, has the representation of the local population of the New Delhi area, inasmuch as, three members of the Legislative Assembly of Delhi representing constituencies which comprises wholly or partly of the New Delhi area are a part thereof. The member of Parliament representing the constituency which comprises wholly or partly the New Delhi area is a special invitee for the meetings of the Council, but without a right to vote. Section 10 of the said Act states that subject to the provisions of the Act and the rules, regulations and bye-laws made thereunder, the Municipal Government of New Delhi shall vest in the Council. Section 11 lays down the various obligatory functions of the Council which are as follows:

(a) the construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences;

(b) the construction and maintenance of works and means for providing supply of water for public and private purposes;

(c) the scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters;

(d) the construction or purchase, maintenance, extension, management for--

(i) supply and distribution of electricity to the public;

(ii) providing a sufficient supply of pure and wholesome water;

(e) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

(f) the regulation of places for the disposal of the dead and the provision and maintenance of places for the said purpose;

(g) the registration of births and deaths;

(h) public vaccination and inuoculation;

(i) measures for preventing and checking the spread of dangerous diseases;

(j) the establishment and maintenance of hospitals, dispensaries and maternity and child welfare centres and the carrying out of other measures necessary for public medical relief;

(k) the construction/ and maintenance of municipal markets and regulation of all markets;

(l) the regulation and abatement of offensive or dangerous trade or practices;

(m) the securing or removal of dangerous buildings and places;

(n) the construction, maintenance, alteration and improvements of public streets, bridges, culverts, causeways and the like;

(o) the lighting, watering and cleansing of public streets and other public places;

(p) the removal of obstructions and projections in or upon streets bridges and other public places;

(q) the naming and numbering of streets and premises;

(r) the establishment, maintenance of, and aid to, schools for primary educations subject to such grants as may be determined by the Central Government from time to time;

(s) the maintenance of municipal offices;

(t) the laying out or the maintenance of public parks, gardens or recreation grounds;

(u) the maintenance of monuments and memorials vested in any local authority in New Delhi immediately before the commencement of this Act or which may be vested in the Council after such commencement;

(v) the maintenance and development of the value of all properties vested in or entrusted to the management of the Council;

(w) the preparation of plans for economic development and social justice;

(x) the maintenance including the expansion and upgradation of facilities of the hospitals existing on the date of the commencement of this Act;

(y) sanction or refuse erection or re-erection of buildings; and

(z) the fulfilment of any other obligation imposed by or under this Act or any other law for the time being in force.

19. Section 44 of Act 44 of 1994 constitutes the New Delhi Municipal Fund. The said fund consists of, inter alia, all moneys received by way of taxes, rates and cesses levied for the purposes of the Act and all fees collected and all funds levied under the Act or under any Rule, Regulation or Bye-Law made thereunder. The New Delhi Municipal Fund is required to be credited to the New Delhi Municipal Fund General Account and payments out of the said fund cannot be made unless the expenditure for the same is covered by current budget grant, subject to various exceptions carved out in the proviso to the Section. Under Section 55, on or before 31st March of every year the Council is required to adopt for the ensuing year the

budget estimate. The Council has the power to levy the following taxes, namely, (a) property tax, (b) the tax on vehicles and anomalies (c) theater tax, (d) the tax on advertisement other than advertisement published on newspaper, (e) a duty on the transfer of property, and (f) a tax on building payable along with application for sanction of building plan. The Council may also levy (a) an education cess, (b) tax on professions, trades, callings and employment, (c) tax on the consumption, sale and supply of electricity, (d) a betterment tax on the increase of urban land values cost by the execution for any development or employment work, and (e) tolls. The Council has the power to raise a demand of the taxes and to recover the same, if necessary, by resort to coercive means. The Council also has to power to effectively enforce its rules, regulations and bye-laws.

20. All these provisions clearly show that the Municipal Council has been constituted to carry out the local self-government of the areas falling within the area known as New Delhi, boundaries whereof are described in the first schedule to the said Act. It is, therefore, a municipality.

21. The Municipal Council is the successor body of the NDMC, as is evident from the provisions of Act 44 of 1994, particularly Section 416 thereof. All the properties earlier vested in NDMC stand vested in the Municipal Council. All legal proceedings instituted or which might have been instituted by or against the NDMC may be continued or instituted by or against the Municipal Council. When, admittedly, the provisions of the P.P.Act were applicable to the premises belonging to the NDMC, it is even otherwise not reasonable to construe that the applicability of the P.P Act was excluded upon the Constitution of the Municipal Council. There is no provision introduced in the P.P.Act upon its amendment on 1.6.1994 to oust its application to the premises belonging to the Municipal Council. In my view the expression 'any Municipal Committee or notified area Committee' has to be generally construed to include any municipality. However, even if it were to be accepted that two views are possible in the matter, that view has to be preferred which advances the object of legislation i.e the P.P.Act and Act 44 of 1994, and the other interpretation has to be discarded. (See Bhatia International v. Bulk Trading S.A and Anr. : [2002]2SCR411 . If the expression 'any Municipal Committee or notified area Committee' did not include the Municipal Council, there

was no reason why the Parliament would not have amended the language used in Section 2(e)(3)(i) of the P.P Act on 1.6.1994 to include the expression 'Municipal Council', since the purpose of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1993 (7 of 1994) primarily was to expand, and not to narrow, the scope of its application. Since in my view the expression 'any Municipal Committee or Notified Area Committee' has to be generally understood as including a Municipality, the submission of the petitioner that the present is a case of casus omissus is rejected. There is no question of any ambiguity in the meaning of the aforesaid expression.

22. For the aforesaid reasons, I dismiss these writ petitions and vacate the interim orders in each one of them. Considering the fact that the proceedings have not been finalized due to the interim orders of the Court, I direct the Estate Officer to conclude the proceedings as expeditiously as possible. The petitioners are granted one week's time to submit all their contentions and documents before the Estate Officer, if they wish to. The petitioners may appear for making their submissions before the Estate Officer on 24.9.2008.