**CASE SUMMARY**

DLF Qutab Enclave Residents Welfare Association (Regd.) v. State of Haryana

**Punjab and Haryana High Court**

**CWP No. 5215 of 2016**

1. **Facts**
2. In 2001, QERWA challenged the construction of buildings and commercial projects on areas that were supposed to be parks or green spaces by way of a Writ Petition. During the pendency of these proceedings, an undertaking was given by the then Director Town and Country Planning through an affidavit in which he had categorically stated that the green areas as approved as on date in the layout plan of DLF Phases I to IV shall not be converted into any other use and shall be retained as such. Such proceedings were disposed of on the basis of this undertaking.
3. Thereafter, QERWA believes the State of Haryana operated in violation of its undertaking and the Court’s corresponding order by:
4. Uprooting fully grown trees on the green belt situated on the Sector Road near House No.s 9 and 9-A, behind E- Block, Phase I of the colony, overnight; and
5. Making an allotment for the setting up of a petrol pump at the site in question to Bharat Petroleum Corporation Limited (the “Bharat Petroleum”) and granting a corresponding NOC.
6. QERWA filed this case seeking, among others, directions to the State of Haryana to maintain the green belt based on the previous undertakings given to the Court and for quashing the NOC given for setting up of the petrol pump at the site in question. During the pendency of the proceedings, QERWA discovered that plans for the land in question were being changed again without the court's approval. This time, the plan included building a nursery and other residential areas, which was against the original undertakings to keep the area green.
7. In this case, QERWA has listed several reasons why the court should prevent the petrol station and any other construction in the green space. These arguments include (i) people living nearby weren't asked for their opinions, (ii) that green spaces are crucial for cities, and (iii) that there's no need for another petrol station there. QERWA submits that all these actions are a violation of the residents’ rights and go against previous decisions made to protect green spaces in their neighborhood.
8. Bharat Petroleum in its defence raises preliminary objections against the maintainability of the case. Bharat Petroleum principally asserts the case relates to areas outside DLF Phase I, where the green belt preservation order passed by this court does not apply. Bharat Petroleum further claims that QERWA is not entitled to extraordinary writ jurisdiction and clarifies that the petrol pump site in question was planned and legally established long before QERWA’s case. Bharat Petroleum refutes allegations of environmental violations and cites that it has all the requisite permits and necessary agreements in place. Bharat Petroleum accordingly seeks dismissal of the Petition.
9. Equally, the Haryana Urban Developmental Authority (“HUDA”) in its defence asserts that the land allocated for the petrol pump was originally unplanned and later approved by HUDA, falling on a dividing road between sectors 26-A and 42, Gurgaon, with no existing greenbelt. HUDA clarifies that the site was allotted to Bharat Petroleum with necessary permissions obtained for tree cutting and subsequent plantations. HUDA also requests a dismissal of the present petition.
10. During the pendency of this case, on March 21, 2016, the Court granted a judicial stay on the construction of the petrol pump and directed that the green belt be maintained till further orders. Bharat Petroleum have in the meantime filed an application requesting a vacation of the interim order that has thus far prevented Bharat Petroleum from proceeding with the construction of the petrol pump.
11. **Key Issues**
12. Whether the action of the State of Haryana and HUDA in permitting the setting up of a petrol pump or residential colonies at the proposed site is justified?
13. Whether the State of Haryana in cutting down innumerable fully grown trees and thus demolishing a green zone is without following due process of law?
14. **Procedural History**
15. The case was filed on March 16, 2016, whereafter the court issued notice on March 21, 2016. On the same day, interim orders were passed to maintain the status quo regarding the site allotted to respondent No. 5. with adjournments and instructions for filing replies and documentation through various dates across 2016 to 2018.
16. Then, overtime orders were passed including directives for maintaining status quo, submission of replies and documents by the respondents, and requests for adjournments by both petitioners and respondents. Notably, on April 24, 2017, the court requested details on whether the disputed site was designated as a green belt or earmarked for a petrol pump in the original layout plan, with subsequent revisions to be explained.
17. Throughout 2018 and 2019, the case saw several adjournments, with the court seeking additional information, including instructions on an alternative site for a retail outlet and responses to the court's inquiries about the layout plans and site designation.
18. In 2020, the focus shifted towards identifying an alternative location for the petrol pump and submitting the relevant site plans. However, it was eventually submitted that no alternate site was available for the petrol pump, leading to further adjournments. After a significant gap in court proceedings, the case was listed again on September 1, 2022, with instructions for respondents to file replies by the next hearing date.
19. By February 20, 2023, a new development emerged with respondent No. 4 intending to convert the previously contested petrol pump site into a Nursing Home and Creche, prompting QERWA to seek an amendment to the writ petition. This led to a deferral of the hearing to May 29, 2023, indicating ongoing legal proceedings and adjustments in the case's focus due to changes in the intentions for the use of the site in question.
20. **Analysis**
21. QERWA’s case against the State of Haryana and other respondents highlights significant legal and environmental concerns regarding the unauthorized conversion of designated green spaces into commercial and residential developments, specifically a petrol pump. The petitioners argue that such actions violate previous court orders, the Haryana Urban Development Authority Act, 1977, principles of natural justice, and the due process of law. They emphasize the importance of green spaces for urban health and the community's welfare, highlighting the adverse effects on local residents, particularly seniors and those directly affected by increased traffic and safety risks. The case raises critical questions about adherence to legal procedures, environmental conservation, and the accountability of authorities in urban planning decisions.
22. **Conclusion**
23. Given the procedural history, legal framework, and issues at stake, it is likely that the court's decision will tilt towards the preservation of the green belt. That said, this case will have broader implications for urban governance, environmental law, and the preservation of public spaces. QERWA’s proactive steps and legal arguments underscore the need for a judicial review that respects both legal precedents and the sustainable development of urban areas. The outcome could reinforce legal protections for green spaces and set a precedent for how similar cases are approached in the future, emphasizing the balance between development and environmental preservation.

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