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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: February 03, 2010

Date of Order: March 22, 2010

+ CM(M) 13/2009

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22.03.2010

Tek Chand

...Petitioner

Through: Mr. K.C. Mittal and Mr. Ayush Gupta, Advocates

Versus

Rattan Lal & Ors.

...Respondents

Through: Mr. K.D. Prasad, Mohd. Kazim Sher & Mr. Vishal Prasad,
Advocates

for R-1.

Mr. Ajay Arora and Mr. Kapil Dutta, Advocates for MCD

Ms. Shobhana Takiar, Advocate for DDA

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. In this petition under Article 227 of the Constitution of India, the petitioner made following prayers:

"A. set aside impugned order dated 5.12.2008 passed by Ms. Kamini Lau, ADJ, Delhi in RCA No.27/2007 in appeal titled as 'Tek Chand v/s Rattan Lal' now fixed for 15.01.2009 and ordering that at least the compoundable portion of the property bearing no.17-C, Gaon Mochi Bagh, New Delhi be not demolished; and

B. issue an appropriate direction or order declaring the action of the respondent no.3 MCD asking the petitioner to obtain an NOC from the respondent no.2 DDA and further the action of respondent no.2

DDA for refusing the grant of NOC as illegal, arbitrary and violative of Fundamental Rights of the petitioner guaranteed by the Constitution of India; and

- C. *Issue a further direction or order to respondent no.3 MCD to consider the application of petitioner for regularization without demanding NOC or directing respondent no.2 DDA to issue an NOC for getting building plan and regularization of property bearing No.H.No.17-C, Gaon Mochi Bagh (previously known as Bagh Alakpur, Delhi), Moti Bagh, Nanakpura, New Delhi."*

2. The first prayer is in respect of order passed by learned ADJ. The order reads as under:

"Heard part arguments on the appeal. It is evident from the trial court record that there is no sanctioned building plan for the four to five storied building constructed by the appellant on the land belonging to the government under the management and control of DDA; building activities of which are under the control of MCD. (Shri Sanjay Gupta JLO from MCD has informed that as per the report filed before the trial court and entire building has been booked for unauthorized construction. The action taken report of the MCD along with the relevant photographs is directed to be placed on record on next date. Senior officer of the District under whom the action has been taken is directed to be present in person on next date along with the report. Be listed for part heard arguments on the appeal for 15.1.2009."

3. The prayers B and C are beyond the jurisdiction of this Court. While

entertaining a petition under Article 227 of the Constitution of India, this Court cannot give directions to MCD or DDA to act in a particular manner. Article 227 does not give power to this Court over DDA or MCD. Article 227 relates to supervisory powers of this Court over subordinate courts/ tribunals. Therefore, prayers B and C made in the petition are beyond the scope and jurisdiction of Article 227 of the Constitution of India. As far as prayer A is concerned, I find that the order passed by learned trial court does not suffer from any jurisdictional error and warrants no interference. The petition is hereby dismissed. No orders as to costs.

March 22, 2010
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SHIV NARAYAN DHINGRA J.