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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1549/2012

PRAMOD TALWAR

..... Petitioner

Through: Mr.Mukul Dhawan, Advocate

versus

THE COMMISSIONER MCD AND ORS Respondents

Through: Ms.Manjira Dasgupta, Adv for
respondents No.1 and 2.

Ms.Navratan Chaudhary, Adv for
Respondents No.3 and 4

Mr.Amjet Andlay, Adv for R-5.

Mr.Anil Sapra, Sr. Advocate with

Mr.Nishant Datta and Ms.Sampath
Sudha, Advocates for R-6

SI Govind Singh, PS Rajouri Garden
(Delhi Police)

ASI Mukesh Kumar, Rajouri Garden
(Traffic Police)

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

01.10.2012

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1. The petitioner is a resident of Subhash Nagar. He is aggrieved by the encroachment made by respondent No.6 over the vacant plot bearing No.WZ-1/8, Block No.2, Subhash Nagar.
2. By the present writ petition, the petitioner seeks a direction to the MCD to immediately seal the property in question, demolish the same and do not issue licence to respondent No.6 to run the banquet hall.
3. It is contended by Mr.Mukul Dhawan, learned counsel for the petitioner,

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By:AMULYA

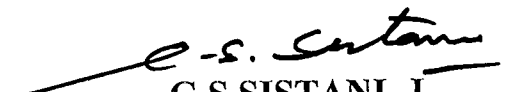
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Plan. It is further submitted that respondent No.6 has encroached upon the public land, carried out illegal and unauthorized construction and is now using the area as a Barat Ghar, is providing other elite services and huge amounts are being collected by respondent No.6.

4. The learned counsel for respondent No.6 submits that respondent No.6 is in possession over the plot in question for the past 40/50 years and it has been utilizing the land for charitable purposes. Mr.Sapra submits that respondent no.6 was put into possession by the Gram Sabha. Respondent no.6 has been unable to provide title documents.
5. A status report has been filed by the MCD. As per the status report, Subhash Nagar is a residential colony which was developed almost 50 years ago by the Land & Development Office and the open areas were handed over to MCD for further maintenance of lanes and roads etc. Further, as per the status report, there is no plot by the municipal number WZ-1/A, however, the land in question is a land earmarked as a vacant plot as per the layout plan of the L&DO. A copy of the layout plan has been filed.
6. Although there are no bases to suggest but the status report states that the Banquet Hall is operational on the first and second floors of the plot in question and is under the control of Shri Ram Leela Barat Ghar Committee for the past 50 to 60 years. The barat ghar is operational in part on the site and rest of the site is being utilized by the Arya Samaj Mandir, Post Office and there are number of shops. It has also been stated that the MCD has issued notice to the President of the Shri Ram Leela Barat Ghar Committee, calling upon them to provide relevant documents pertaining to running the barat ghar, however, despite repeated notices no document has been provided to establish title over the land in question. Copies of notices dated 20.4.2012 and 17.7.2012 have been annexed.

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7. Counsel appearing on behalf of respondent No.6 submits that the MCD must follow due process of law before initiating any action against respondent No.6 and even otherwise disputed questions of facts cannot be decided in these proceedings.
 8. Mr.Mukul Dhawan, learned counsel for the petitioner, however, submits that the present writ petition does not raise any disputed questions of fact for the reason that the status report clearly shows that the respondent no.6 has failed to provide any document of title over the land in question which is shown as a vacant plot as per the layout plan of the L&DO.
 9. Let the MCD inspect the property in question and in case of encroachment over public land and/or unauthorized construction over the vacant plot or the property is being put into illegal use, MCD will after following due process of law take necessary steps in accordance with law with respect to the subject property after issuing a show cause notice to respondent No.6. The MCD will also consider as to whether the activities which are being carried out by respondent No.6 are in accordance with the master plan and zonal development plan of the area. It is expected that the MCD will initiate action in accordance with law expeditiously.
 10. The writ petition and all the pending applications are, accordingly, disposed of. Interim order stands vacated.


G.S.SISTANI, J

OCTOBER 01, 2012

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