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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1121/2015 and CM No.2872/2015 (stay) and CM No. 1995/2015 and CM No._____/2015 (to be numbered) for stay

HARISH KUMAR

..... Petitioner

Through: Mr. G. Tushar Rao and Mr. Aatriya Singh, Advocates

versus

THE COMMISSIONER, SOUTH DELHI
MUNICIPAL CORPORATION & ORS

..... Respondents

Through: Mr. Ajay Digpaul, Advocate for R-1
Mr. Ajay Verma, Advocate for R-2/DDA
Ms. Zubeda Begum, Standing Counsel with Ms. Sana Ansari, Advocate alongwith SHO, South Campus for R-3
Dr. L.S. Chaudhary, Mr. Ajay Chaudhary and Ms. Pratibha Gupta, Advocates for R-4

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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23.02.2015

1. Pursuant to the hearing held on 21.02.2015, status reports have been filed on behalf of respondent no.1/ SDMC and the concerned SHO, who is, in effect, proceeded against via respondent no.3 and DDA i.e., respondent no.2.
2. The sum and substance of the status reports filed before me are as follows :-
 - (i). The subject "Mazar" is situate on abadi land in Khasra no.224, in the Arak Pur Bagh Mochi Village, located at Nanakpura, New Delhi.

- (ii). That the aforementioned land is owned by DDA.
 - (iii). That unauthorised construction around the “Mazar” has come up.
 - (iv). The concrete wall as well as pillars have been erected at the subject site without permission of either the land owning agency i.e., DDA or respondent no.1 / SDMC.
 - (v). A communication in that behalf, it appears, has been exchanged between SDMC and the concerned SHO.
 - (v)(a). To be noted, a communication dated 19.02.2015 addressed by respondent no.1 i.e., SDMC to the Dy. Commissioner of Police, South District, Hauz Khas, New Delhi, has been copied to the Delhi Waqf Board, SDM Khas and the Dy. Director (LM), South, DDA.
2. Pertinently, respondent no.4 has not been able to contradict that the aforementioned land is not owned by DDA.
- 2.1 Having regard to the above, the learned counsel for respondent no.4 says that he would have no objection if the authorities concerned would maintain the subject site and suitably beautify the same.
- 2.2 The learned counsel for the petitioner also says that he has no difficulty if the “Mazar” is maintained at the subject site.
- 2.3 It is the counsel’s concern that unauthorised construction has come up which is affecting the interest of the residents of houses located in and around the subject site. To be noted, the petitioner’s brother is an occupant of a residential property, which is numbered as House No: 71 which, as noted in the first order of this court dated 04.02.2015 abuts the subject site.
3. In these circumstances, respondent no.1 / SDMC is directed to provide all necessary assistance to enable demolition of unauthorised construction in and around the Mazar. The concerned exercise will be

undertaken in the presence of the officers of the DDA.

3.1 DDA shall thereafter take necessary steps to beautify the area in and around the Mazar, and to achieve this end, they would, inter alia, plant trees and saplings, etc.

3.2 The concerned SHO will render necessary assistance by providing requisite police force for enabling respondent no.1/SDMC to undertake the aforesaid exercise. Respondent no.1/SDMC shall give at least three (3) days notice to the concerned SHO to enable him to deploy adequate police force.

3.3 Needless to say, if any unauthorised construction has been carried out by the petitioner, the same shall also be actioned by respondent no.1 i.e., SDMC. Counsel for the petitioner says that he has no objection to such an action being taken qua any unauthorised construction being carried out in House no.71. It is made clear that action, if any, qua the unauthorised construction, if any, in House No.71 or, any other property in and around the subject site, will be taken after following due process of law.

3.4 De-sealing will be carried out by respondent no.1/SDMC for the aforesaid purposes.

3.5 The Government agencies shall carry out the aforesaid exercise as expeditiously as possible, though no later than four (4) weeks from today.

3.6 On a case to case basis, though the concerned SHO, will give access to the residents of the village to the Mazar if permission is sought to offer prayers.

3.7 The concerned SHO, is put to notice that he will be personally responsible, if the access granted by him is used to carry out any further unauthorised construction. An intimation received in that behalf will be communicated to respondent no.1/ SDMC.

4. The captioned petition and the pending applications are, accordingly, disposed of.
5. The date earlier fixed in the matter i.e., 15.05.2015 shall stand cancelled.
6. Dasti under the signatures of the Court Master.

RAJIV SHAKDHER, J

FEBRUARY 23, 2015

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