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

Reserved on 31.08.2015
Date of Decision: 10.09.2015

+ W.P.(C) 7016/2015

ANIL DUTT SHARMA

..... Petitioner

Through Mr.J.K.Sharma, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr.Bhagvan Swarup Shukla,
CGSC with Mr.Sajosh Kumar, Advocate for
UOI/R-1.

Ms.Aayushi Gupta and Mr.Arun Panwar,
Advocates for Mr.Raman Duggal, Standing
Counsel for GNCTD/R-2 & 3.

Ms.Anunima Dwivedi and Mr.Rajinder Singh,
Advocates for R-4/MCD South.

Ms.Eshita Baruah, Advocate for Mr.Gaurang
Kanth, Advocate for R-6/EDMC.

Mr.Ajay Arora, Advocate for NDMC/SDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. This public interest petition is filed by the petitioner seeking the following reliefs:-

“(a) Issue writ, order or direction in nature of
Mandamus of any other appropriate writ,

order or directions to the Respondent. Properties (sic) must be booked after considering the relevant violation.

(b) Principal of natural justice to be adopted prior to booking of properties.

(c) Action under CCS (Conduct) rules may be initiated/direction against the delinquent officers.

(d) Bookings procedure should not be biased and as per the Merit of the case.”

2. The petitioner is stated to be filing the present petition based on common personal knowledge being a resident of Delhi and based on knowledge from various RTI applications seeking information of alleged unauthorised constructions and dereliction of duty of administrative heads/seniors. The petition seeks to list out various steps which according to the petitioner ought to be taken by MCD on noticing any unauthorised construction. A detailed step by step procedure is stated. It is further averred that building department issues ambiguous notices addressed to “constructors” or in the name of “builder”. Hence, it is averred that on account of such vague notices issued, no one replies to the same and the MCD then books the entire property and an adverse effect is felt by all the owners of the property/various flat owners of the property.

3. It is also averred that the petitioner received information under the RTI Act that in some cases the police had reported to the Building Department Shahdara (South) about unauthorised construction being carried out. It is averred that in these cases no action has been carried out by the corporations. It is then averred that in the said area i.e. Shahdara

(South) 20 notices had been issued under section 343 and 344 of DMC Act and properties booked are only 22. Though reports of unauthorised construction were received from the police in the month of August for 239 properties, in September for 149 and in October for 104. It is further averred that the petitioner calculated 70,700 sq. ft. total area constructed as unauthorised construction made in July 2014 as per the said police reports. There is hence inaction by the Municipal Staff. It is further averred that the procedure to deal with unauthorised construction is that the police has to send a report to the MCD u/s 475 DMC Act and thereafter it is the duty of the corporation to stop the construction, but according to the petitioner, the two authorities keep on shifting responsibilities on each other. It is also averred that the Building Department books the unauthorised properties without prior notice/ show cause notice to the constructors which is an action against the principle of natural justice.

4. It is then stated that MCD is biased in selection of property for booking. Reliance is placed on order dated 10.09.2008 in WP(C) 4582/2003 Kalyan Sunshines Social Welfare v. UOI where it is said that a detailed scheme to deal with unauthorised properties was framed. The MCD it is stated has made false statement of compliance of the scheme. The averments go on in this haphazard manner.

5. A perusal of the petition will show that it is replete with such disjointed and incohesive facts and averments. No conclusions can be arrived at on the basis of these inchoate facts and submissions. There is also no attempt to explain the source of the information that is placed on record. There is also no attempt to co-relate the facts with the relief

sought.

6. Further, a look at the relief clause shows that the relief sought are too general and broad in nature e.g. properties must be booked after considering the relevant violation, principles of natural justice should be followed etc. The relief sought are nothing but stating the obvious.

7. Another aspect also has an important bearing on this petition. Learned counsel appearing for the respondents points out that in W.P.(C)7556/2015 titled Anil Dutt Sharma vs. East Delhi Municipal Corporation And Ors. this court on 10.08.2015 noted the conduct of the petitioner as follows:-

“2. As far as I recollect, a First Information Report (FIR) was lodged against the petitioner of using the complaints made by him of unauthorized construction in various properties to extort monies out of owners thereof and the petitioner is under prosecution for the same and on that ground certain Public Interest Litigations (PILs) filed by the petitioner relating to unauthorized construction in the city were also dismissed.

3. The counsel for the respondent No.2 NrDMC appearing on advance notice confirms and has handed over in the Court a copy of FIR No.1110 dated 19th August, 2014 of Police Station-Bhajanpura, Delhi against the petitioner of offence under Section 384 of the Indian Penal Code. It is also informed that the petitioner was arrested and is now released on bail.

4. The counsel for the petitioner does not controvert but states that the petitioner has applied for quashing of that FIR and which petition is pending consideration in this Court.

5. I am of the view that this Court cannot lend its

process to such a person whose intent in filing petitions before this Court, with respect to unauthorized construction, is to make a living out of those.”

8. Counsel for the petitioner does not challenge the averments so made.

9. Keeping in view the vague and evasive nature of pleadings and relief sought, we find no merit in the petition. Further keeping in view the conduct of the petitioner, as noted by this Court in the order dated 10.08.2015 in W.P.(C) No.7556/2015, we do not think it appropriate to entertain the present petition filed as a public interest litigation at the behest of the petitioner. The writ petition is dismissed.

**(JAYANT NATH)
JUDGE**

(CHIEF JUSTICE)

SEPTEMBER 10, 2015

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