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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 220/2016 & CM Appls. 886, 887/2016

TULINDER KATOCH

..... Petitioner

Through: Mr. Kamal Mehta with Mr. Deepak
Agarwal and Mr. Sumit Sharma, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Mrinalini Sen Gupta with Ms. Rajul
Jain, Advs. for R-1

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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13.01.2016

The present writ petition has been filed with the following
prayers:-

“a)Pass appropriate writ/direction/order thereby directing Respondents to enforce and implement the terms and conditions based on which permission dated 08.01.2008 was granted to Respondent No. 2 for construction of a residential project; and

b)Pass appropriate writ/direction/order thereby directing Respondents to demolish the structure being constructed in the space earmarked for green area as per the landscape layout submitted while obtaining environmental clearance dated 08.01.2008 and to restore back said central park/green; and

c)Pass any other proper and further order(s) which this Hon'ble Court deems fit in the peculiar circumstances of the present case.”

Learned counsel for respondent No. 1 raises a preliminary objection to the maintainability of the present writ petition on the ground that in view of Section 14 of the National Green Tribunal Act, 2010 (for short 'NGT Act') only the Tribunal has the jurisdiction to decide a case where a substantial question relating to environment is involved.

On the other hand, learned counsel for the petitioner states that as the project being developed by respondent No. 2 is a gated community, the present writ petition does not involve substantial question of law relating to environment as envisaged under Section 2(m) of the NGT Act.

In the opinion of this Court, if a developer does not maintain and a large area of 31513.27 square metres as green, it would surely give rise to a substantial question relating to environment and would affect the community at large.

Consequently, the preliminary objection is upheld and present writ petition and pending applications are dismissed. However, petitioner is given liberty to approach the National Green Tribunal.

MANMOHAN, J

JANUARY 13, 2016
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