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

+ W.P.(C) 408/2015 & CM No.686/2015 (for stay) & 20548/2015 (u/O I R-10 CPC)

RAJENDER SINGH & ORS Petitioners
Through: Mr. S.S. Panwar and Mr. Sunil Baloni, Advs.

Versus

GOVT. OF NCT OF DELHI & ORS. Respondents
Through: Ms. Manika Tripathy Pandey and Mr. Ashutosh Kaushik, Advs. for GNCTD
Ms. Ruchira Gupta, Adv. for R-4.
Mr. Deepak Pathak, Adv. for R-5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **11.01.2016**

1. The petition impugns the works commenced of improvement of drain and carriageway by Ready Mixed Concrete (RMC) at Old M.B. Road, IGNOU Road and Phirni Road in pursuance to the work order dated 11th February, 2013. It is the contention of the 14 petitioners claiming to be residents of Village Lado Sarai, Old M.B. Road, New Delhi that the aforesaid works entail damage / blockage of the old sewer line serving the properties of the petitioners.

2. Notice of the petition was issued and vide ad-interim order dated 14th January, 2015, the respondents were directed to ensure that no disruption is

caused to the petitioners till further order. Counter affidavits have been filed by respondents No.1 to 3, Public Works Department (PWD), Govt. of NCT of Delhi (GNCTD) as well as by the respondent No.4 Delhi Jab Board (DJB).

3. An application for impleadment has been filed by the Lado Sarai Welfare & Cultural Association (RWA).

4. The counsels have been heard.

5. It is the stand of the respondent GNCTD and DJB that what is being called by the petitioners as the sewer line to prevent damage to which this petition is filed is in fact an old storm water drain in which the petitioners have been illegally discharging their sewage. It is the case of PWD and DJB (it is informed that DJB is concerned with the sewage) that the impugned works are relating to a storm water drain only; that the petitioners have been illegally discharging their sewage in the storm water drain and to which they were / are not entitled to; that there is a separate sewage line and in which the petitioners, if so desire can discharge the sewage of their properties in accordance with law. It is further stated that 90% of the impugned work is complete and the petitioners are interfering with the balance work.

6. The counsel for the applicant RWA states that in fact the said works were commenced at the instance of the RWA and the petitioners in fact have extended their properties and encroached upon public land and the present petition is to save the said encroachments.

7. Needless to state the counsel for the petitioners controverts and states that the existing drain which is being called by the respondents as a storm

water drain is the old sewage line only and which has already been damaged by the impugned works.

8. Though there is a plethora of plans and photographs before this Court but all that can be observed is that there is no reason to disbelieve the stand of the public authorities of what the petitioners are calling the sewage line being in fact a storm water drain. If the petitioners desire to challenge the same, it would entail a factual adjudication by examination and cross-examination of witnesses and which is outside the domain of writ proceedings.

9. Else, once according to the respondents the petitioners would also be entitled to connect their properties to the new sewage line, it is not as if the petitioners are being left without any facility of sewer.

10. It cannot be lost sight of that the petitioners are but 14 in numbers and all the other residents of the locality are in favour of the impugned works.

11. Such public works which are intended for general public good cannot be permitted to be held up at the instance of a few of the residents. It cannot be forgotten that any delay in completion of the works has a cascading effect.

12. The counsel for the petitioners has drawn attention to para 5 of parawise reply of the counter affidavit of the PWD as well as to the site plan annexed to the said counter affidavit and has contended that the two are inconsistent. He has also argued that no new sewer line is being constructed. He also contends that in fact the respondents have permitted usage of the storm water drain as sewage.

13. The counsel for the respondent PWD controverts that there is any such inconsistency.

14. On enquiry, as to where sewage of the other residents of the locality is being discharged, the counsel for the petitioners states that it is discharged in the storm water drain only which is being permitted to be used as the sewage.

15. The counsel for the respondents and the counsel for the applicant RWA controverts.

16. The version of the petitioners as to all the aforesaid aspects, as aforesaid, cannot be accepted as against the version of the majority of the residents and the public authorities. If the petitioners desire to challenge the same, they ought to have file a suit in this regard.

17. I therefore do not find any merit in the petition.

18. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

JANUARY 11, 2016

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