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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 4529/2008
NARESH KUMAR SHARMA Petitioner
Through Mr.Sanjay S.Chhabra and
Ms.Vijay Laxmi, Advocates.

versus

MCD & ORS Respondents
Through Mr.Mukesh Gupta, Advocate for R-1.
Mr.A.Vikram, Advocate for R-2.
Mr.Sidhartha Nagpal and Mr. Sumit
Pushkarana, Advocate with
Mr.L.L.Meena, EE for DJB.
Mr.Satyakam, ASC for GNCTD.
Mr.Amitabh Marwah, Advocate for
DDA.
Mr.Parvinder Chauhan, Advocate for
R-7.
Ms.Radhika, Advocate for R-8

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **05.09.2016**

The present petition has been filed under Article 226 of the Constitution of India seeking certain directions qua the Statutory Authorities; a direction has been sought qua Statutory Authorities asking them to undertake the work of repair and cleaning the sewage/drain pipes/rain water drains, passing through Block C-1, Vasant Kunj, New Delhi and to remove the accumulated filth, rubbish etc. deposited in the said pipes over the period of time.

Counter affidavit has been filed by the SDMC.

In the course of these proceedings, a Bench of this Court on 20.10.2009 had noted this submission of the petitioner that because of the extensive water logging especially in the monsoon season and in spite of the complaints having been made to the authorities no action was being taken and a Committee was constituted under the Chairmanship of the CEO of the Delhi Jal Board. The Committee had to submit report with regard to the position at the site. On 11.11.2010, it was noted that the site was inspected and it was decided that new internal storm water drain was required. This Statutory Authority i.e. the MCD, PWD and the DDA were required to file affidavit in their response. On 03.12.2013, a status report was directed to be filed by the MCD detailing a time bound programme within which all these measures would be implemented.

On 22.4.2016, the Residents' Welfare Association which was respondent no.4 was transposed as the petitioner. Case is now being espoused by the Resident's Welfare Association, Block C-1, Vasanj Kunj. Today before this Court, learned counsel for the respondent submits that in view of the last status report dated 02.9.2016 submitted by respondent no.2(DDA), it is clear that nothing survives in this petition.

Learned counsel appearing for the DDA has drawn attention of this Court to the photographs appended along with this petition. Learned counsel for respondent no.2 has also drawn attention of this court to its affidavit dated 11.12.2015 as also the affidavit of the Delhi Jal Board which is appended to the record and the minutes of the meeting of the Committee dated 03.12.2015 (constituted under the

orders dated 16.10.2015). The long term and the short term measures had been discussed in the meeting where admittedly, the petitioner/RWA was present and his presence has been noted. The short term measures included the de-silting of the existing peripheral drain up to the outfall point at the onset of the monsoon to above backflow; to install pumps at strategic locations to meet emergency and to ensure that no water logging take place in C-1, Vasant Kunj. The status report on the action taken clearly show that this site was jointly inspected by the Committee, PWD as also the members of the RWA on 05.11.2010. The second aspect i.e. the de-silting of the internal drain before the onset of the monsoon was also discussed. The RWA had showed their satisfaction on this issue. It was further noted that annual de-silting of the internal drain has been ensured by the SDMC. The question of installation of pumps at the strategic location was also discussed. The question of de-silting of the drain along with Mahipalpur Road before the onset of monsoon was also considered. The RWA pointed out that this de-silting has not been done. The PWD assured that the de-silting has been completed. To resolve this issue a joint inspection was done on 05.11.2015. It was satisfactory recorded that the de-silting work has been done.

Long terms measures proposed that the construction of a new drain from the temple near Axis Bank to Police, to provide internal drainage system for Masood Pur, Delhi to examine the adequacy of the existing drain system at Block-C-1, Vasant Kunj, New Delhi. The satisfaction of the RWA in the minutes of the meeting dated 03.12.2015 on various strategic issues was noted.

Today before this Court, learned counsel for the petitioner submits that he is not pressing the issue qua weekly bazaar which is being proposed at the afore-noted site. He has not disputed the fact that on 03.12.2015 he was represented as RWA before the joint meeting, his submission is that in September, 2015 he had moved an application (C.M. No.21427/2015) seeking certain directions from this Court which included the de-silting of the drain as the work of the Department was not satisfactory. This Court notes that this application has been filed in September, 2015 and the minutes of the meeting held on 03.12.2015 had recorded that a joint inspection of the site was carried on 05.11.2015 in the presence of the PWD, MCD, DDA as also the RWA wherein the satisfaction of the RWA in the minutes of the meeting dated 03.12.2015 on this very issue has been recorded; it does not lie in the mouth of the petitioner to state that this application(C.M. No.21427/2015) filed by him in September, 2015 has not been addressed. It has been adequately addressed and the short term and the long term measures taken to the satisfaction of the RWA in its meeting dated 03.12.2015 has been noted.

Mr.D.P.Singh, Executive Engineer from the DDA is present. He states that the last de-silting of the peripheral drain in the area in question was done by super circular machine just 10 days ago i.e. on 20.10.2016. This statement of the Executive Engineer (who is present in Court) is taken on record. Learned counsel for the petitioner insists that an affidavit to the said effect be filed by the respondent. This Court is not in agreement with this submission of the learned counsel for the petitioner as the statement made by the respondent's

Officer/Authorized Representative on behalf of the DDA is taken on record. He is an employee of the Statutory Body and needless to state that this submission which has been made before this Court would not be a submission without proper instructions and as per the actual field work done at the site. This Court also notes, at the cost of repetition, that in the minutes of the meeting recorded on 03.12.2015 the RWA (petitioner) had recorded its continuous satisfaction over the de-silting of the drain in the aforementioned area as also the installation of the pipe/pumps at strategic location to meet emergencies and to avoid water logging in the concerned areas i.e. in C-1, Vasant Kunj, New Delhi. The undertaking of the respondent corporation that they would continue to monitor the progress in the case and ensure that no drain i.e. both the peripheral and internal drains become clogged and would ensure that free flow is monitored as a continuous project is also noted. The respondent shall honour this undertaking in true letter and spirit.

Nothing else survives in this petition.

Petition disposed of accordingly.

INDERMEET KAUR, J

SEPTEMBER 05, 2016

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