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

+ W.P.(C) 6239/2012 & CM Appl. 16731/2012

PEER SAYYAD MAIRAJUDDIN Petitioner
Through: Mr. Haji Mohd. Yameen, Adv.

versus

DELHI WAKF BOARD AND ORS Respondents
Through: Mr. Hashmat Nabi, ASC for R-1
Mr. Manish Mohan, Adv. with Mr. Shivam
Chanana and Mr. Manish, Adv. for R-2 and 4
Mr. Nasimuddin, Adv. for R-3
Mr. Anuj Aggarwal, ASC with Mr. Shubhanshu
Gupta, Adv. for R-5 and 6

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
% **09.02.2016**

The present writ petition has been filed seeking a direction to respondent Nos. 1 to 6 to ensure that clear passage exists between the back side wall of the protected monuments of Kotla Feroze Shah, I.P. Estate, New Delhi and the grave of the Muslim Saint of Dargah Hazrat Badruddin Samarqandi situated at Rose Garden behind Kotla Feroze Shah, I.P. Estate, New Delhi.

Learned counsel for the petitioner states that the respondents should remove all unauthorized construction raised in any form as encroachment in the said passage exists between the said wall of the monuments and the grave of the said Holy Saint.

The Archaeological Survey of India (for short 'ASI') has filed a counter affidavit in which it is stated that no such unauthorized construction has taken place at the aforesaid site.

Even today, Mr. Mohan, learned counsel for ASI states that there is no unauthorized construction and the unauthorized construction alleged by the petitioner has already been removed.

However, learned counsel for the petitioner disputes the same.

Keeping in view the aforesaid, this Court is of the opinion that serious disputed questions are involved which cannot be adjudicated in writ proceedings.

Consequently, the present writ petition and pending application are dismissed with liberty to the petitioner to file appropriate proceedings in accordance with law.

MANMOHAN, J

FEBRUARY 09, 2016
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