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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9807/2015**
SATVINDER SINGH

..... Petitioner

Through Mr. Arun Kaushal, Advocate

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through Mr. Attin Shankar Rastogi, and Mr.
Joel, Advocates for R-3
Mr. Ashim Vachher, Mr. Pawash
Pujush and Mr. Vaibhav Dabas,
Advocates

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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09.08.2016

Petitioner is aggrieved by the fact that unauthorized construction is being carried out by the private respondent (respondent no. 5 - Zile Singh) in property bearing Khasra No. 473, 473 MIN and property bearing Khasra No. 1025 MIN, 1026,1027,1028,1030 and 789 MIN is unauthorized and illegal; Khasra No. 1077 also finds mentioned in the prayer clause. They are situated at Village Asola, New Delhi. Submission being that this unauthorized construction raised over Gram Sabha land is illegal and is liable to be demolished. Necessary action be taken by the competent authority i.e. Municipal Corporation. Municipal Corporation which is South Delhi Municipal Corporation has been

arrayed as respondent no. 3.

In the course of these proceedings an order dated 01.03.2016 had been passed by the Predecessor Bench of this court wherein the submission of the parties were noted which were to the effect that demolition was being carried out by respondent no.3 and action would be taken in accordance with law.

This matter was assailed before Division Bench. The Division Bench on 02.06.2016 had disposed of the LPA directing the Single Judge to look into the fresh status report which shall be filed by the South Delhi Municipal Corporation. The second status report filed by the South Delhi Municipal Corporation (Respondent no.3) is on record and is dated 18.04.2016 which was after the order dated 01.03.2016.

Arguments have been heard. Status reports filed by the Corporation have been perused.

Counsel for the petitioner submits that all actions which were proposed in the order of this Court dated 01.03.2016 was in accordance with law. This Court notes that this was passed prior in time to the second status report filed by the Department which is dated 18.04.2016.

The first status report filed by respondent no. 3 clearly states that inspection of the aforementioned property was carried out and construction of the property consisted of the ground floor and the first floor. The building plan has been sanctioned from the erstwhile Municipal Corporation vide file no. 280/B/HQ/2006/90/AE-I dated 07.06.2006. However, since deviations were noted action under

section 343/344 of the DMC Act were initiated it was pursuant there to that order dated 01.03.2016 has been passed. The second status report dated 18.04.2016 has been placed on record by the Corporation wherein it has been stated that inadvertently the fact that this property was protected under section 3 of the National Capital Territory of Delhi Laws (Special Provision) Second (Amendment) Act, 2014 had not been mentioned in the first status report. This second status report states that in view of the provisions of section 3 of the aforementioned Act this property is protected till 31.12.2017.

Counsel for the petitioner on this score submits that the Department is not clear as to under which sub section of section 3 of the said Act this property is protected. Counsel for the respondent / Corporation submits that this property is protected under section 3(1) (d) of the said Act. Be that as it may, submission of the Department being that the property is protected under Section 3 of the said Act upto 31.12.2017 is noted and taken on record.

At this stage, counsel for the private respondent (i.e respondent no.5) submits that the petitioner is fighting this war which is a private vendetta between the petitioner and respondent no. 5. Attention has been drawn to two suits pending between respondent no.5 and one Ashok Kumar and one Sanjay Tanwar. Contention of counsel for the respondent no. 5 is that both Ashok Kumar and Sanjay Tanwar are closely related to respondent no. 5 and they are fighting this war only to vent out the grievances against private respondent no. 5. Sanjay Tanwar is present in Court today. His presence has been noted.

In view of the factual matrix and also two status reports filed

before this Court by the Government Department / Corporation it is clear that no action can be taken by the Department in view of the protection afforded to this property upto 31.12.2017 in view of the provisions of section 3 of the National Capital Territory of Delhi Laws (Special Provision) Second (Amendment) Act, 2014.

No further orders are called for in this petition.

Petition disposed of.

INDERMEET KAUR, J

AUGUST 09, 2016

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