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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11234/2015**

HANS RAJ

..... Petitioner

Through: Mr. D.S. Patial and Mr. Rohit Kataria,
Advs.

Versus

SOUTH DELHI MUNICIPAL CORPORATION AND
ORS.

..... Respondents

Through: Ms. Puja Kalra, Adv. for R-1.
Mr. L.K. Jha, Adv. for R-2 & R-3.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **16.05.2016**

Petitioner has filed this writ petition under Article 226 of the Constitution of India, inter alia, praying therein that respondent no.1 be directed to demolish the unauthorised construction raised in the Village Jhatiakara, New Delhi – 110043, by the respondent nos. 2 and 3, without a sanctioned plan.

Earlier also petitioner had filed W.P. (C) 7375/2014 for similar reliefs. The said petition was disposed of vide order dated 5th February, 2015, which reads as under :-

“The status report filed on behalf of the South Delhi Municipal Corporation indicates that the action was taken in respect of the

property of Shri Bhagwat Master situated near Main Jhatikara Bus Stand, New Delhi (Ward No. 133). It is also stated that part of the property in question had been demolished and the property had been made uninhabitable.

The learned counsel for the petitioner alleges that there are two properties that are obstructing the passage. While action has been taken against one property, no demolition was carried out on the adjacent property which is also unauthorised and also encroaches upon the public way.

In the aforesaid circumstances, the present petition is disposed of with a direction that respondent no.1 shall examine whether the property adjoining the property booked by SDMC, is also unauthorised and if it is so found, SDMC shall take necessary action in accordance with law as expeditiously as possible and in any event not later than eight weeks from today.”

In the aforesaid order, property which was stated to had been demolished and made uninhabitable, appears to be that of respondent no. 3; whereas the ‘adjoining property’ relates to respondent no.2. It is noted here that respondent no. 2 filed LPA 107/2015 against the order dated 5th February, 2015 but the same was dismissed vide order dated 25th February, 2015, in view of the fact that respondent no.1 was directed to take necessary action, in accordance with law, vide order dated 5th February, 2015.

Respondent no.1-South Delhi Municipal Corporation has filed status report stating therein that property was inspected on 5th December, 2015 by the area Junior Engineer and no ongoing construction was noticed, inasmuch as, no building material was found stacked at the site. The property in

question falls in Lal Dora/Abadi area. The property was built up to the second floor. It is further stated that property was already booked under Section 343/344 of the DMC Act on 27th October, 2014 followed by a demolition order dated 7th November, 2014. On 14th December, 2015 projections/chajjas were demolished in the special demolition programme. Thereafter, the owner of the property applied for regularisation of the property as per the policy, which is under consideration. File has been sent to the Chief Town Planning office and the response is awaited. As regards, property situated near Jhatikara Bus Stand (property of respondent no. 2) is concerned, it is stated that same was old and occupied, inasmuch as, no fresh construction was noticed nor any building material was found stacked.

It is, thus, clear that actions, in accordance with law, have already been taken and no further orders are required to be passed in this petition. Depending upon outcome of the regularisation application further action be taken by the respondent no.1 in accordance with law, within eight weeks.

Writ petition is disposed of in the above terms.

A.K. PATHAK, J.

MAY 16, 2016

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