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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 12062/2015 & C.M. No.32023/2015
NIGAM COLONY DHAKA QUARTERS KARAMCHARI
PARISHAD (REGD.)

..... Petitioner

Through Mr. S.S. Tomar, Adv.

versus

THE COMMISSIONER, NORTH DELHI MUNICIPAL
CORPORATION & ORS

..... Respondents

Through Ms. Mini Pushkarna, standing counsel
with Ms. Anushurti and
Ms. Vasundhara Nayyar, Advocate.
Mr. Anuj Aggarwal and Mr.
Shubhanshu Gupta, Advs for R-3.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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22.09.2016

1 Petitioner is aggrieved by the Resolution No.121 dated 05.8.2015 (Revenue Generating Project- Item No.5) passed by the respondent/North Delhi Municipal Corporation. Submission is that the resolution is in violation of the scheme “Low Income Housing Scheme” (hereinafter referred to as the “said Scheme”) adopted by the earlier Resolution No.1310 (dated 27.4.1955).

2 The averments in the petition disclose that on 27.4.1955, the respondent had passed a resolution providing a “Low Income Group Housing Project” to its Class 3 and Class 4 employees. The residents

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of Nimri Municipal Colony were granted ownership rights under the Resolution dated 27.4.1955. This was in the year 1989. On 01.02.2012, the Standing Committee of the respondent passed a resolution to transfer ownership rights to allottees of Azadpur Municipal Colony and Municipal Colony Dhaka which was subsequently rejected. The present petition admittedly pertains to residents of Dhaka Municipal Colony. They are working employees of the respondent Corporation and under the aforetoed Scheme had been allotted quarters in the aforenoted colony.

3 This petition has been filed by the Nigam Colony Dhakka Quarters Karamchari Parishad (Regd.). The averments in the writ petition disclose that a judgment passed in W.P(C) 1662 of 1988 titled Nirmal Kumar Jain & Ors. Vs. Municipal Corporation of Delhi decided on 08.9.1989 a Bench of this Court had an occasion to deal with the flat owners of Nimri Colony. The Court in this context, while noting the submission and the counter submissions of the parties had held that since these quarters at Nimri Colony had been constructed not from the funds of the Municipal Corporation, the provisions of Section 200 of the DMC Act would not apply. Submission of the petitioner being that the same ratio should be made applicable to the case of the present petitioner i.e. Nigam Colony Dhakka Quarters Karamchari Parishad (Regd.).

4 This position has been refuted by learned counsel for respondent. She has drawn attention of this Court to the order passed in that case wherein in another of the said judgment the Court had

conclusively held that the case of Nimri Colony is distinct and different from the other colonies which included the Dhaka Municipal Colony meaning thereby that the benefit afforded to the Nimri Colony had been declined to the Dhaka Municipal Colony residents. Learned counsel for the respondent has also drawn attention of this Court to the SLP preferred by the petitioner before the Apex Court which was disposed of on 22.11.2000. This judgment passed in SLP No.17454/2000 Nigam Colony Dhakka Quaters Karamchari Parishad (Regd.) Vs. Municipal Corporation of Delhi and Ors. is a part of the record. The Apex Court had rejected the plea of the petitioners that Section 200 of the DMC Act would not be applicable to them. After examining the said Scheme, the Apex Court was of the view that the directions given by the High Court was restricted only to Nimri Colony; Dhakka Colony was specifically denied that benefit. The petition before the Apex Court had been dismissed. Time had, however, been granted to the petitioners to vacate their quarters by 31.12.2000.

5 This writ petition had been filed in the year 2015.

6 A specific query has been put to the learned counsel for the petitioners as to how this petition is maintainable as the rights of the petitioners have been determined by the order of the Apex Court in the judgment pronounced on 22.11.2008. Submission of the petitioner is that he is aggrieved by the subsequent resolution passed by the Corporation which is dated 05.8.2015. The Resolution dated

05.8.2015 has been placed on record. Annexure 7 (Item No.75) states that a Group Housing Project is proposed on the aforementioned land. This project was approved in this Resolution No.121 Item No.75. The stand of the Corporation in its counter affidavit has also been perused. Counsel for the respondent under instructions submits that this scheme is applicable to serving employees of the Corporation and in case the allottees of the present accommodation are disturbed/displaced for the purposes of building a new multi-storeyed complex they shall be granted an alternate accommodation. This has been specifically stated in para 4 of their counter affidavit. Learned counsel for respondent submits that they will adhere to this stand in true letter and spirit and although the said project is still a proposal and it is nowhere in the picture as yet but if at any point of time, the petitioners/serving employees of the Corporation are displaced, they will be given an alternate accommodation. It is further pointed out that these accommodations were constructed in the year 1955 and they would have to be demolished as they have become unsafe.

7 In the rejoinder filed by the learned counsel for the petitioners his contention is that the project appears to be making a progress for the reason that the NBCC has been granted the contract to construct this housing complex.

8 This has been specifically denied by the respondent who submits that no such contract has been given to the NBCC. This submission is also taken on record.

9 Noting the judgment pronounced by the Apex Court which was
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way back in the year 2000 depriving the petitioners of all rights in this colony, the subsequent Resolution No.121 dated 08.5.2015 (Item No.75) will not come in the way of the Corporation to redevelop these residential quarters. The additional stand of the respondent that no progress has been made pursuant to this resolution and their alternate submission that in case, the petitioners/serving employees of the Corporation are to be displaced they would be granted alternate accommodation is also noted. Their undertaking to honour this commitment is taken on record. This Court is thus of the view that no further orders are called for in this petition. The stand of the respondent is reiterated that they will adhere to this undertaking in true letter and spirit.

10 This writ petition is disposed of in the above terms.

INDERMEET KAUR, J

SEPTEMBER 22, 2016

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