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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision : 08.07.2016

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W.P. (C) No. 921/2016 & CM No. 16759/2016

AMARJEET

...Petitioner

Through : None.

Versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

...Respondents

Through : Ms. Puja Kalra, Adv. for SDMC/R-1.

Mr. Sumeet Pushkarna, Adv. for DJB/
R-4.

Mr. Peeeyoosh Kalra, ASC for
GNCTD/R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

MS. JUSTICE G. ROHINI, (ORAL)

1. The instant Public Interest Litigation has been filed by the petitioner for demolition of unauthorised construction in the following properties :

- i) A-17, Panchsheel Vihar, Malviya Nagar, New Delhi.
- ii) B-09, Panchsheel Vihar, Malviya Nagar, New Delhi.
- iii) B-81, Panchsheel Vihar, Malviya Nagar, New Delhi.
- iv) R-82-B, Gupta Colony, Malviya Nagar, New Delhi.
- v) R-83-B, Gupta Colony, Malviya Nagar, New Delhi.
- vi) Property of Sh. Pawan Saini between Property No. J-122-A and J-1/9-A, Gupta Colony, Malviya Nagar, New Delhi.

2. The petitioner alleged that the unauthorised construction is in the notice of officials of South Delhi Municipal Corporation as well as local police station- Malviya Nagar, New Delhi and they were legally bound to stop/restrain the unauthorised constructions. According to the petitioner, the properties have been raised without a sanctioned site plan under Delhi Municipal Corporation Act and are required to be removed immediately in public interest. It is pointed out that under the provisions of Section 344 (2) of the Delhi Municipal Corporation Act, the Area Junior Engineers (Building) and Assistant Engineers (Building), Ward Nos. 191, S.D.M.C. are responsible for, and thus should have intimated the police for registration of F.I.R, which was not done. The petitioner prays that a case may be registered under Sections 7, 12 and 13 of Prevention Of Corruption Act, 1988 read with Section 120-B I.P.C against Junior Engineer (Building) and Executive Engineer (Building-I), South Zone, S.D.M.C for giving undue benefit to the builders of the impugned properties.

3. It is further stated that the officers of BSES Rajdhani Power Ltd. and Delhi Jal Board continue to supply electricity and water to these properties despite receiving information from the S.D.M.C. The petitioner requests that a case may be registered against the erring officials of BSES Rajdhani Power Ltd, New Delhi and Delhi Jal Board for not disconnecting electricity and water connections of the aforesaid properties. Further, the petitioner requests that a case may be registered against owner/ builders of the above said properties for giving bribes to the officers of S.D.M.C, BSES RPL and Delhi Jal Board.

4. Based on these submissions regarding neglect of official duties and corruption, the present Writ Petition is filed under Article 226 of the Constitution of India. It is accompanied by photographs of the impugned properties.

5. Respondent No. 1- S.D.M.C has filed its counter affidavit on 14.03.2016 denying the contentions made by the petitioner. As per the official record R-1 states that action was initiated against the unauthorised constructions under Sections 343/ 344 of the D.M.C Act. Demolition orders were issued and letters for stoppage of work were sent to the SHO, Malviya Nagar requesting action by the police. Removal of workmen and seizure of construction material was also requested.

6. South Delhi Municipal Corporation further states that letters for disconnection of electricity and water supply to the aforesaid properties were sent to the concerned authorities. Moreover, it is claimed that letters were sent to the Sub-Registrar requesting non registration of these properties. It also urges that prosecution action under Section 466A of the Delhi Municipal Corporation Act was initiated, demolition action against the properties was taken, following which the properties were sealed.

7. None appeared on behalf of the petitioner. We have heard learned counsel for the respondents.

8. The petitioner has placed reliance on *Common Cause v. Union of India and Ors, CWP No. 4771/1993*, wherein this Hon'ble Court in its order dated 03.11.1997 restrained the concerned parties from carrying out any construction in unauthorised colonies and also prohibited any indirect aid or assistance to such activities particularly

by the builders/contractors/architect etc. and the officers would also be liable for departmental action in case it is found that within the area of their jurisdiction unauthorised construction was being undertaken.

9. Perusal of the entire record including the photographs shows that the competent authorities took steps under the provisions of the Delhi Municipal Corporation Act, 1957 by issuing orders of demolition of unauthorised construction, writing for disconnection of water and electricity supply and informing the Sub-Registrar not to register the property under the Registration Act, 1908. The competent authority also requested the SHO Malviya Nagar for removal of workmen and seizure of material and to stop the unauthorised construction.

10. In light of the fact that the petitioner has absent himself and the respondent No. 1 South Delhi Municipal Corporation has filed the counter affidavit explaining the actions taken, there is no need to keep this petition pending any longer. Accordingly, present writ petition stands disposed of with a direction to the South Delhi Municipal Corporation to ensure that no unauthorised constructions are raised within the area of their jurisdiction.

CM No. 16759/2016

12. The present application is rendered infructuous in view of the order passed in the writ petition.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J.

July 08, 2016 / gr//