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

+ W.P.(C) 2491/2012 and CM APPL. 5331/2012

BOULEVARD ROAD MCD FLAT RESIDENTS WELFARE
ASSOCIATION (REGD) Petitioner

Through Mr. Umesh Sharma, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS Respondents

Through Mr. Santosh Kumar Tripathi, ASC
with Mr. Rizwan, Adv. for
GNCTD/R-1.

Mr. Parvinder Chauhan and Mr. Nitin
Jain, Adv. for DUSIB.

Mr. Sajeew Sabharwal, Standing
Counsel for North DMC.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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23.10.2017

Petitioner is an Association of residents of MCD flats located at Main Boulevard Road. Cause of filing the instant petition is raising of a permanent structure in the open space which falls somewhere in between a notified JJ Cluster and the residential complex of the petitioner Association. It is not in dispute that the construction is in the name of a Basti Vikas Kendra, which has come to be raised by DUSIB, which came to be impleaded during the course of the proceedings. Which is the land owing agency, is not clear.

During the course of hearing, Mr. Sharma, Id. Counsel for the

petitioner restricts the submission only on two counts. One, DUSIB was required to seek sanction of building plans from the concerned municipality, which is presently North Delhi Municipal Corporation. Secondly, the site, where the construction has come to be raised, was earmarked as a park and its land could not be allowed to be used otherwise. Without elaboration and to be precise, the stand of DUSIB is that the subject JJ Cluster known as “Bagichi Bhairon Ki” is a notified cluster and, it has been within the rights and the competence of DUSIB to construct the subject Kendra at the given site and that, the subject site is nowhere notified as a park.

No material on record has come to be pointed out by the Id. Counsel for the petitioner, despite being queried, to show that the subject site is a notified park. In fact, all the three Govt. agencies i.e. North Delhi Municipal Corporation, Govt. of NCT of Delhi and DUSIB on their part seem to be still struggling to find out as to which is the land owing agency, but for Mr. Khan, Id. ASC for Govt. of NCT of Delhi, advertng to some entries in the revenue records recording the ownership to be that of ‘Sarkar Daulat Madar’. Be that as it may, both the aspects require to be looked into by the concerned municipality in the first instance.

Keeping in view the totality of the facts and circumstances, the writ petition is disposed off with the directions to the concerned Dy. Commissioner, North Delhi Municipal Corporation to treat the instant writ petition as a representation of the petitioner and dispose off the same by way of a speaking order as expeditiously as possible. Should the petitioner be still aggrieved of any order passed by the concerned

Dy. Commissioner, the liberty is reserved to the petitioner to approach this Court afresh. Petition stands disposed off, accordingly.

A. K. CHAWLA, J

OCTOBER 23, 2017

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