

\$~25

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

+ **W.P.(C) 4117/2008**

ARVIND BINDAL & ORS. Petitioner
Through **Mr. Vikas Nagpal, Adv.**

versus

M.C.D. & ORS. Respondents
Through **Mr. Ajjay Aroraa, Mr. Kapil Sutt and**
Ms. Divya Sharma, Adv. for SDMC.
Ms. Jyoti Taneja, Adv. for GNCTD.
Mr. Sanjeev Sagar, Adv. for DDA.
Ms. Monika Arora, Adv. for UOI/R4.
Mr. Ankit Gupta, Adv. for R-6.
Ms.Sunita Harish, Adv. for LR's of
late Gian Chand.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

%

30.11.2017

Instant petition came to be filed seeking issuance of Writs, as follows ;

“(a) To issue a writ, order or direction in the nature of a writ of mandamus directing the respondent no.1 to take legal action to remove the illegal, unauthorized jhuggi cluster illegal and unauthorised construction and the encroachment from the green belt on canal land along with ring road near Mayapuri Chowk (Kirti Nagar) situate in front of C block of Mansarovar Garden, New Delhi.

(b) to issue writ, order or direction to the respondent no.1 to treat the petitioners properties in question out of the purview of sealing under DMC Act.

(c) to issue the writ, order and directions in the nature of a writ of prohibition restraining/prohibiting the respondent no.1 from sealing the properties of the petitioners, in question as they are entitled to be extended the benefit of “mixed land use”

as per the amendment in the Master Plan.

.....
.....”

The original respondents were MCD and SHO, PS M.S. Garden. Later, private parties came to be added as the respondents. During the course of proceedings, the question arose as to whom the subject land belongs to. It resulted into constitution of a Committee headed by the Chief Secretary, Govt. of NCT of Delhi, to ascertain so. A report in that context has now come to be furnished and as per the said report, the land was put at the disposal of DDA vide notification no. 22(i) of DD Act no. F.8(16)/62/I&H dated 6.7.1965. This report, however, further also states that this land has been transferred to Rewari Line Industrial Scheme on 6.7.1965 for development. Whether the subject land is actually at the disposal of DDA or stands transferred to some other agency under a Scheme, as recorded in the said report, is not required to be gone into in the instant proceedings. Suffice to say, by the instant petition, the petitioner only sought removal of the encroachment and/or unauthorized construction on the subject land. Here, it may only be relevant to mention that on 31.7.2017, Mr. Sagar, ld. counsel for the DDA had stated that for any action to be taken by DDA, DDA shall follow the lawful course of action, and, if, required under law, notices for the purpose shall be issued to the applicant. This submission was made in relation to the private respondents, who apprehended being dispossessed by DDA. DDA, as said earlier, is not a party to the instant proceedings and it goes without saying that for any action to be taken by DDA, DDA

will follow the lawful course of action.

In view of the foregoing, the prayers sought in the petition do not survive. In the event, the petitioners are still concerned about any encroachment and/or unauthorized construction, the liberty is reserved to the petitioners to file a fresh petition, if, any right survives for the purpose. Petition stands disposed off accordingly.

A. K. CHAWLA, J

NOVEMBER 30, 2017

rc