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

+ **W.P.(C) 2802/2015, CM APPL. 18582/2016 & 15663/2017**

ASHOK SIKKA

..... Petitioner

versus

UNION OF INDIA & ORS.

..... Respondents

AND

+ **W.P.(C) 4205/2015, CM APPL. 12182/2015, 21757/2015,
25579/2016 & 15673/2017**

ASHOK SIKKA

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION (SDMC)

..... Respondent

Through : Petitioner appears in person.

Mr.Paranjay Chopra & Mr.Ahmad Ziad, Advocates for
R2 in Item No.3.

Mr.Abhay Prakash Sahay, CGSC with Mr.Brajesh
Kumar, G.P. & Ms.J.Priyadarshini, Advocate in Item
No.3.

Mr.Ajjay Aroraa, Advocate with Mr.Kapil Dutta &
Ms.Diksha Lal, Advocates for SDMC in Item Nos.3& 4.

Mr.Sanjay Lao, Advocate with Mr.Siddharth Sindhu,
Advocate for Delhi Police in Item No.3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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06.07.2017

In both these petitions common questions of fact relate to demolition action that took place in Sainik Farms. The petitioner was resident and owner of House No. B5, 14 lane, Sainik Farm. The MCD alleged that some portions of his property were demolished in

2000 and despite restraint, fresh construction took place. The petitioner was issued notices under Section 343/344/345 of the Delhi Municipal Corporation Act on 22.02.2007 to which he replied and resisted demolition on 26.02.2007. His grievance is that when matters were pending and after hearing of his objections – which were concluded on 16.04.2007, the MCD unilaterally proceeded to demolish the substantial portion of the property and structure on 23.05.2007, 24.05.2007, 25.05.2007, 26.05.2007 & 30.05.2007. MCD's stated position is that it proceeded under the directions of the Court in W.P.No. 6734/2000 (Rajiv Malhotra vs. Union of India) as well as under the directions and guidance of the committee set up by this Court. It also relies upon the order on 09.05.2007 to say that an action taken report in this regard was required on it.

It has transpired during the course of hearing that the petitioner – Ashok Sikka has also instituted civil proceedings - Suit No. 5984/2016 – which was earlier on the file of this Court as CS (OS) No. 1099/2010 but was later transferred to the file of the District Judge, Saket Courts. In that proceeding the petitioner has claimed damages and compensation on various heads including the inconvenience and agony suffered by him and his family, on account of demolition which according to him is illegal. He further seeks a direction for restoration of the property apart from monetary compensation and furthermore has instituted criminal proceedings against officers of the MCD and other bodies. In these circumstances, the Court expressed the opinion that adjudicate in the writ petition

proceedings would be inappropriate and would have the effect of prejudging disputed questions of law for which the proper forum is the Civil Court and for criminal proceedings instituted, the competent Court in regard to such allegations. Agreed to the Court's suggestion that instead of proceedings further the writ petitions and deciding the questions urged, the concerned Civil Judge may be appropriately directed to conclude the proceedings at the earliest. Accordingly, the Additional District Judge, concurrently seized of CS (OS) No.5984/2016 (Dr.Neera Bharihoke) is hereby directed to ensure that the further procedure included such as recording of depositions / evidence and hearing of the parties and conclusion of all other pending matters in the suit, is expedited and ensure that the final judgment is rendered on or before 31.01.2018. It is also clarified that all rights and contentions of the parties i.e. the petitioner and the respondents to take up such pleas as are available in law, to them are reserved.

The writ petitions - W.P.(C) 2802/2015 and W.P.(C) 4205/2015 are disposed of in the above terms.

Order '*dasti*' to the parties.

S. RAVINDRA BHAT, J

S.P.GARG, J

JULY 06, 2017 / tr