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

+ **CRL.M.C. 4045/2011**

RAJINDER MISHRA & ANR

..... Petitioner

Represented by: Mr. K.K. Sharma, Mr. Sanjeev
Kumar, Advs.

versus

ANOOP GOEL @ MOOLI & ORS

..... Respondent

Represented by: Mr. Nitin Bhardwaj, Adv. for
R-1.
Mr. Naushad Ahmed Khan,
ASC for R-2&3.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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16.01.2017

1. The petitioner primarily prays for execution of the order dated 31st July, 2007 passed by the SDM Shri Vijay Bhardwaj, Sadar Bazar by removing/ demolition of illegal encroachment from public land WZ-28, Nimri Village, Shastri Nagar, Delhi-52.
2. A complaint was filed under Section 133 Cr.P.C. in the year 1991 which was pending. On 31st July, 2007 the SDM on the basis of the report of the Local Commissioner directed removal of encroachment made by Anoop Goel on 13 sq. yds. of Government land, on building line, East to West. Tehsildar Sadar Bazar was directed to enforce the order for removing encroachment with the help of local Police. Since no action was taken, the petitioner filed a complaint case 616/2009 which was disposed of on November 30, 2010 directing the SDM concerned to consider the application of the petitioner and pass an order within three months.

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3. On the application of the petitioner an order dated 28th February, 2011 has been passed by the SDM as under:

“After bestowing my careful consideration to the rival submissions and contentions made in the light of the material placed on record, I have to come to the conclusion that defendants have not committed any contempt of Court by non executing orders dated 31.07.2007 of SDM (Sadar Bazar) as alleged in this application because I have no doubt about the intentions of the defendants to carry out the execution of the said orders as they reached the spot with adequate police force and MCD staff was also required to reach the spot for removal of encroachment as is evident from the letter dated 16.01.2008 of the then Tehsildar Sadar Bazar (defendant) to the Executive Engineer MCD. But the MCD staff did not turn up at the site. Being urbanized village, MCD is the land owning agency. Under these facts and circumstances it is thus clear that defendants have not committed any contempt by not executing the order dated 31.07.2007 of SDM (Sadar Bazar). Hence this application being devoid of any merit is dismissed.”

4. Thus, the learned SDM held that no contempt was committed by the defendants before it. This Court repeatedly put a question to the learned counsel for the petitioner as to the maintainability of the present criminal miscellaneous petition under Section 482 Cr.P.C. Learned counsel for the petitioner reiterates that order passed by the SDM was required to be executed. Section 482 Cr.P.C. cannot be used for execution of the orders passed by an authority. Hence the present petition is not maintainable and is dismissed as such.

MUKTA GUPTA, J.

JANUARY 16, 2017
‘ga’

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