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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2831/2017 & CM APPL. 12348/2017

DIVYA SHARMA

..... Petitioner

Through: Mr. Sudeep Dey, Advocate with
Ms. Rashmi, Advocate.

versus

DELHI JAL BOARD

..... Respondent

Through: Mr. Sumit Pushkarna, Advocate.

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Date of Decision: 28th March, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed seeking a direction to respondent-DJB to grant a new water connection to the petitioner in property bearing No.A-5/63-D, Fourth Floor, Paschim Vihar, New Delhi.
2. It has been averred in the petition that since November, 2014, occupant of the ground floor of the aforesaid building is preventing the petitioner from using water from the connection provided by the respondent-DJB.
3. It has been further averred that petitioner filed a civil suit being RCA No.5/2015 with regard to the aforesaid grievance, but the same was dismissed vide order dated 20th January, 2016 on the ground that property in

question is unauthorised and illegal.

4. It has also been averred that the petitioner filed second appeal being RSA No.92/2016 against the aforesaid order, but the same was dismissed as not pressed.

5. It is the petitioner's case that vide application dated 04th December, 2014, petitioner applied for a fresh water connection, but the same has not been granted till date.

6. Learned counsel for petitioner states that non-consideration of petitioner's application for grant of new water connection is violative of Article 21 of the Constitution. In support of his contention, he relies upon a judgment of this Court in ***Raju vs. Delhi Jal Board, Through its Chief Executive Officer & Anr., W.P.(C) 267/2016***.

7. On the other hand, learned counsel for respondent-DJB emphasises that the petitioner's property does not have any permission/sanction from DDA. He states that if water connection is granted to the respondent, then it will give a huge boost to illegal and unauthorised construction in Delhi.

8. As the petitioner admits that he has carried out illegal and unauthorised construction, this Court is of the view that he cannot invoke the high prerogative writ jurisdiction as the said jurisdiction is available to those who approach the Courts with clean hands.

9. In ***Raju*** (Supra) case the Court dealt with a situation where there was only a dispute with regard to the ownership of the property. The property in ***Raju*** (Supra) case was not illegal or unauthorised or constructed on encroached land. This Court clarifies that in the ***Raju*** (supra) case it has not been held that possession of the property is sufficient to seek independent water connection. The aforesaid view of the Court is also in consonance

with Section 9 of the Delhi Water Board Act, 1998.

10. Consequently, present writ petition and application, being bereft of merits, are dismissed.

MANMOHAN, J

MARCH 28, 2017

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