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

+ **CONT.CAS(C) 345/2017**

DANISH MAHFOOZ

..... Petitioner

Through Mr. Santosh Kumar, Adv.

versus

MANISH GUPTA & ORS

..... Respondents

Through

Mr. Santosh Kr. Tripathi, ASC for
GNCTD with Mr. Rizwan, Adv for
R-2 & 5.

Mr. Sanjeev Sabharwal, Adv for
SDMC with Mr. Manohar Lal (AE),
Bldg. South Zone.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **12.09.2017**

By the petition filed under Section 11 & 12 of the Contempt of Courts Act, the petitioner alleges violation of the directions given by the Division Bench of this Court on 18.07.2016 in WP(C) 12291/2015 Shri Danish Mahfooz Vs. The State, Govt. of NCT of Delhi & Ors. To appreciate the contentions of the petitioner in the instant case, it would not be desirable to have a look of the order dated 18.07.2016 in its entirety, which is as under.

“1. The present petition has been filed as a Public Interest Litigation seeking a direction to the Respondents 1 to 8 to initiate legal action against the Respondent No.9 and to restrain him from carrying out unauthorized construction at property bearing No. T-63-B, Khirki Extension, Malviya Nagar, New Delhi. The petitioner also seeks a further direction

to demolish the alleged unlawful existing structure over the said property and to remove the other encroachments over the Government lands.

2. It is the case of the Petitioner that he made a complaint dated 01.09.2014 to Respondent No.1 to 8 with regard to the unauthorized constructions carried out by the Respondent No.9 on various Government properties but no action has been taken on the complaint till date.

3. In the status report filed on behalf of the Respondent No.3/Delhi Development Authority, it is stated that the land in question does not fall in the development area under the provisions of the Delhi Development Act, 1957 and, therefore, no action can be taken at their end, but it is for the South Delhi Municipal Corporation to take the necessary action.

4. The Respondent No.8 / SHO, Malviya Nagar also filed a status report stating that it has already been informed to the Municipal Corporation that the necessary police assistance would be extended whenever it is necessary.

5. Though no notice was issued, the Respondent No.9 entered appearance and all the allegations of encroachment and unauthorized construction made in the petition have been denied.

6. In identical circumstances, by order dated 08.07.2016 in W.P.(C) No.921/2016 titled *Amarjeet Singh v. South Delhi Municipal Corporation & Ors.*, we have directed the SDMC to ensure that no unauthorized constructions will be raised within their area of jurisdiction. We, therefore, consider it appropriate to dispose of this petition with a direction to the Respondents No.4 to 6 and 8 to consider the contents of this writ petition treating the same as a representation and take appropriate action in accordance with law in case the allegations are found to be true. The action taken shall be informed to the Petitioner within four weeks from the date of receipt of the order.

7. The writ petition is disposed of accordingly.

On the perusal of the order, it cannot be said that the directions given in the said order implied that for every unauthorised construction being raised in Delhi and the action taken thereon, by the respondent and others, the respondent-SDMC is to report of every such action to the petitioner, as is contended to by the ld. counsel for

the petitioner. In the contempt petition, the petitioner adverts to two instances of unauthorised construction being raised. One being at property bearing no. T-63B, Khirki Extension, Malviya Nagar, New Delhi and the other at 157-A, U Block, Shakarpur, Delhi-92, which falls within the jurisdiction of EDMC. As for the property bearing no. T-63B, Khirki Extension, Malviya Nagar, New Delhi, the demolition action has come to be carried out in May, 2017, though, beyond the time prescribed by the Division Bench of this Court. The delay on the part of respondent-SDMC cannot be the wilful disobedience of the direction given by the Division Bench of this Court, keeping in view the status report filed, wherein, it is stated that several requests were made to local police to provide force for carrying out demolition. As for the other property bearing no. 157-A, U Block, Shakarpur, Delhi-92, this falls within the jurisdiction of EDMC. Suffice to say, EDMC would not only be oblivious to the proceedings in which the said direction came to be given on 18.07.2016, the subject order does not impose such an obligation upon SDMC, as is sought to be propounded by the ld. counsel for the petitioner. Petition filed is therefore, dismissed.

A. K. CHAWLA, J

SEPTEMBER 12, 2017

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