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

+ **W.P.(C) 4869/2017 & CM No.21117/2017**

RACHNA SAHNI Petitioner

Through: **Mr. Bahar U. Barqi, Adv.**

versus

GOVT OF NCT OF DELHI AND ORS Respondent

Through: **Mr. Sanjay Dewan with
Ms. Palak Rohmetra, Advs.
for R-1, 2, 11 & 12.**

**Mr. Dhanesh Relan,
Standing Counsel for DDA.**

**Ms. Mini Pushkarna,
Standing Counsel with Ms.
Anushruti and Ms.
Vasundhara Nayyar, Advs.
for SDMC.**

**Mr. Sunil Fernandes,
Standing Counsel with Mr.
Arnav Vidyarthi and Ms.
Anju Thomas, Advs. for
BSES.**

**Mr. Ajay Digpaul, CGSC for
R-7/AFFRO.**

**Ms. Smita Mann, Adv. for
R-9.**

**SI Sanjay Kumar, P.S.,
Safdarjang Encl.**

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

17.11.2017

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1. This writ petition has been filed in public interest in respect of alleged encroachments, unauthorized constructions and misuse

of land which forms the subject matter of Khasra No.277, Village Hauz Khas.

2. The writ petitioner has alleged that the private respondent No.9 is responsible for all these illegal activities of running a hotel/guest house at the said property.

3. Amongst 12 respondents, the petitioner has arrayed the Delhi Development Authority as a party respondent No.10, which has filed the status report dated 17th August, 2017, making the following disclosure with regard to the status of the land as well as the litigation being pursued by the DDA in respect of the said property:

“2. I say that vide order dated 30.05.2017 by this Hon’ble Court, the DDA was directed to file the status report. It is submitted that the property in question falls in Khasra No.277 of Village Hauz Khas, which is an acquired Government land, acquired vide Award No.1928 of Village Hauz Khas and the possession of the same was taken over by the LAC and handed over to the Delhi Development Authority on 21.01.1967. It is further submitted that the same has been placed at the disposal of the DDA under section 22(i) of the ‘The Delhi Development Act, 1957’ vide Notification No.F8(1)/61 L&H dated 13.06.1967.

3. I say that as per the records the series of litigation being perused (sic. pursued) by the answering respondent against the illegal encroachment on the property in question i.e. Govt. land is detailed as under:

<i>S.no.</i>	<i>Particulars of the case</i>	<i>Details of the relevant order passed</i>
	<i>IN HON'BLE HIGH COURT OF DELHI</i>	
1.	<i>WPC-5429/2015, titled as Dayanand Gochhwal Vs. DDA filed against Shri Iqbal Chauhan, Smt. Renu Singh (respondent no.9 in present writ petition) and Smt. Rihana for removal of the encroachment form the Government acquired land falling in Khasra no.277 village Hauz Khas, New Delhi</i>	<i>Vide order dated 26.05.2015 matter got disposed of, DDA was directed to carry out demolition and remove the encroachment within 6 weeks.</i>
2.	<i>LPA No.525/15 filed by Shri Iqbal Chauhan, Smt. Renu Singh and Smt. Rihana against the order dated 26.05.2015 passed in WPC 5429/2015.</i>	<i>Vide order dated 09.07.2015 the WPC-5429/2015 was restored and the petitioner were given liberty to represent in writ.</i>
3.	<i>WPC 8611/2015, titled as Iqbal Chauhan & Ors Vs. DDA, filed by Shri Iqbal Chauhan, Smt. Renu Singh and Smt. Rihana claiming themselves to be the owner of the T-40 falling in Khasra No.624/278 situated in Abadi/lal Dora of village Hauz Khas with the prayer for demarcation of Khasra no.624/278, 277 & other khasras.</i>	<i>Vide order dated 03.11.2015 the writ was dismissed as withdrawn to file appropriate proceeding according to law. (*petitioner therein has failed to get any relief from this Hon'ble Court for want of the Title documents so as to establish the title and right of the</i>

		<i>petitioner therein over the suit property.)</i>
4.	<i>Within 2 days of withdrawing of WPC 8611/2015, CS (OS) – 3352/15, Ngudup Wangmo dontatsang Bhutia Vs. DDA, was filed seeking injunction from demolition in T-40, village Hauz Khas, New Delhi.</i>	<i>Vide order dated 17.08.2016, the application u/r O39 R1 & 2 filed by the plaintiff was allowed while dismissing the application U/r O39 R 4 of the DDA. The DDA was restrained from demolition and interfering in peaceful possession of the plaintiff.</i>
5.	<i>FAO(OS) 60/17 was filed challenging the order dated 17.08.2016.</i>	<i>Vide order dated 28.02.2017 notices were issued and vide order dated 03.05.2017 both the parties were directed to maintain the status quo as the respondent were raising unauthorized construction.</i>
6.	<i>CCP 522/2017, in FAO (OS) 60/17 for contempt of order dated 03.05.2017 was filed.</i>	<i>Vide order dated 28.07.2017 notices were issued in CCP 522/2017 and sealing application filed in FAO(OS) 60/17.</i>
7.	<i>WPC 2552/2017, Rachna Sahni Vs. GNCTD & Ors. seeking directions for respondent to not to carry out any authorized construction</i>	<i>Vide order dated 18.05.2017 the parties to the petition were directed to maintain status quo.</i>

	<i>in T-40, village Hauz Khas, New Delhi.</i>	
8.	<i>WPC 4869/17 Rachna Sahni Vs. GNCTD & Ors. seeking criminal action against Ms. Renu Singh, respondent no.9 for encroaching Govt. Property i.e. T-40, village Hauz Khas, New Delhi.</i>	<i>Vide order dated 30.05.2017 respondents were directed to file the status report.</i>
	IN SAKET DISTRICT COURT	
1.	<i>CS No.313/15 Iqbal Chauhan Vs. DDA in respect of property No.40, village Hauz Khas (325 Sq. Yard)</i>	<i>Vide order dated 23.11.2015 Defendants were directed not to demolish the suit property.</i>
2.	<i>CS No.306/15 Rehana Chauhan Vs. DDA in respect of property No.40A, village Hauz Khas (85 Sq. Yard)</i>	<i>Vide order dated 10.11.2015 Defendants were directed not to demolish the suit property.”</i>

4. It is evident from the above that the DDA has been fully conscious of its rights in respect of the land and is taking steps in accordance with the provisions of the Delhi Development Act, 1957. It would also appear that the DDA's stand is strengthened by certain orders in litigation, which includes the suit in the original side. DDA appears to be actively contesting interim order which has been obtained by the private parties, inasmuch as appeal has been filed and also the DDA has proceeded with contempt of Court.

5. It has also to be noted that learned counsel appearing for the

respondent No.9 before us, informs this Court that by a sale deed dated 21.05.2013 this property was sold by the respondent No.9 to Mrs. Ngudup Wangmo Dontatsang Bhutia. It is to be noted that this person appears to have filed CS(OS) No.3352/2015 which is pending before the learned Single Judge of this Court.

6. According to Ms. Mann, learned counsel for the respondent No.9, the present petitioner has filed application in CS(OS) No.3352/2015. It is also noteworthy that yet the petitioner has not impleaded Mrs. Ngudup Wangmo Dontatsang Bhutia as a party respondent in this petition.

7. We also need to note the facts brought on record by the South Delhi Municipal Corporation in its status report. The SDMC has pointed out that it has placed a copy of the order dated 21st July, 2015 passed in W.P.(C) No.3720/2015 ***Rachna Sahni vs. Govt. of NCT of Delhi & Ors.*** wherein it was directed as follows:

*“1. The petition was filed seeking mandamus against the Govt. of NCT of Delhi, SDMC, Delhi Police and DDA to take **action with respect to the activity of running / operation of a hotel / guest house with a restaurant in the name of ‘The Rose’ at T-40, Hauz Khas Village, New Delhi.***

*2. The petition was entertained and directions issued. **The standing counsel for the Govt. of NCT of Delhi on behalf of Delhi Police, the counsel for SDMC and the counsel for DDA all inform that the activity of running a hotel / guest house / restaurant earlier unauthorizedly carried on, has been stopped. The counsel for the petitioner also confirms the same.***

3. The counsel for the petitioner has however drawn

attention to the order dated 17th April, 2015 issuing notice of the petition by which respondent DDA was also directed to respond to the allegation of the property in which the hotel / guest house / restaurant was being run being situated on DDA land.

4. The counsel for the respondent DDA states that the demolition action has been planned with respect to the said construction in accordance with the directions issued in W.P.(C) No.5429/2015.

5. The counsel for the respondent no.3 Ms. Renu Singh W/o Shri Shailender Singh who was alleged in the petition to be indulging in the said unauthorized activity states that the direction in the aforesaid writ petition for demolition of the structure was set aside in an LPA preferred thereagainst and the matter stands remanded to the Single Judge and was listed yesterday and is now posted on 23rd November, 2015.

6. Be that as it may, the present petition has served its purpose and is disposed of.

No costs. ”

(emphasis by us)

8. It would, therefore, appear that the restaurant in the name of ‘The Rose’ against which the present writ petition has been filed was closed, which fact was recorded as back as in the order dated 21st July, 2015 passed in W.P.(C) No.3720/2015.

9. So far as running of guest house/restaurant in the said property is concerned, the SDMC has made the following disclosure in its status report 16th August, 2017:

“8. That as regards the Health Department, no health trade license has been issued on behalf of the Health

Department for running any guest house/restaurant. However, taking advantage of the fact that online issuance of health trade license had been started w.e.f. 05.08.2016, Health trade license has been obtained unauthorizedly with respect to ground floor of the property in question on 21.07.2017 by applying online and downloading automatic health trade license. The department came to know about the same when the premises in question were inspected on 12.08.2017 during routine inspection. Further, it was also found that a restaurant was also being run from the ground floor of the premises in question in the garb of the aforesaid health trade license. Thereafter, steps have already been initiated by the Health Department, South Zone for revocation of the said health trade license, as the premises in question constitute encroachment on DDA land. Further, title dispute with respect to the said property is already pending before this Hon'ble Court in CS(OS) No.3352/2015. Further, this Hon'ble Court has also directed maintenance of status quo qua the title, possession and construction of the property.

Further, the property in question, i.e., T-40, Hauz Khas Village is not situated on notified commercial/mixed land use. Show-cause notices in this regard have already been issued and appropriate action shall be taken by the Health Department, South Zone."

(emphasis by us)

10. Ms. Mini Pushkarna, learned Standing Counsel for the SDMC submits that as on date, this property is lying sealed.
11. From the above narration, it would appear that both the SDMC and DDA are taking diligent and vigilant steps in the matter and no intervention by this Court is warranted.
12. We may also note certain distressing facts which were brought to our notice which were informed to us on the 22nd

August, 2017 and compelled us to note as follows:

“1. Learned counsel for respondent no.9 makes extremely serious allegations against the petitioner contending that the petitioner is resorting to exhortation utilising the shield of public interest litigation. A list of other writ petitions filed by the petitioner and her daughter has been mentioned before us which includes the following:

- a. W.P.(C) No.3720/2015 Rachna Sahni v. GNCTD & Ors.*
- b. W.P.(C) No.5429/2015 Dayanand Gochwal v. DDA & Ors.*
- c. W.P.(C) No.2552/2017 Rachna Sahni v. DDA & Ors.*
- d. W.P.(Crl.) 884/2017 Rachna Sahni v. Commissioner of Police.*

2. Additionally, the petitioner appears to have filed an impleadment application in CS(OS) No.3352/2015 Mrs. Ngudup Wangmo Dontatsang Bhutia v. Delhi Development Authority. Let the record of the above writ petitions and the suit be sent into court on the next date of hearing.

3. It appears that the petitioner has also filed two other writ petitions purporting to be in public interest litigation being W.P.(C) Nos.10174/2016 Rachna Sahni v. South Delhi Municipal Corporation & Ors. and W.P.(C) No.6541/2016 Rachna Sahni v. South Delhi Municipal Corporation & Ors. Let the same be also called for before the next date of hearing.”

13. Learned counsel for the respondent No.9 submits that the petitioner is utilizing the shield of public interest litigation to settle the score of private/political issues with the respondent No.9. We

refrain from making any observations on this aspect.

14. In view of the above, this writ petition is clearly misconceived and is accordingly dismissed.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

NOVEMBER 17, 2017/pmc