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

+ **W.P.(C) 4994/2017 and CM APPL. 21603/2017**

NARESH KHANNA

..... Petitioner

Through Ms. Shalini Kapoor, Mr. Dikshant
Khanna with Ms. Ruhini Dey, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through Mr. Roshan Lal Goel, Standing
Counsel with Ms. Anju Gupta, Adv.
for SDMC/R-1.
Mr. Naushad Ahmed Khan, ASC with
Ms. Ritu Kumari, Adv. for R-2 to R-6
Mr. Harish Pandey, Adv. for R-7.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **04.12.2017**

Instant petition came to be filed alleging unauthorized
construction, with the prayers, as follows :

“(i) issue a writ of mandamus and/or for the writ of prohibition and/or any other similar writ, order or direction, issuing appropriate direction to the Respondent No.1 and 5 to exercise their statutory powers and functions under Section 332, 333, 334, 343, 344 & 345A of the Delhi Municipal Corporation Act and under Section 22 and 81 of the Delhi Land Reforms Act, 1954 and to stop and prevent the large scale encroachment, illegal and unauthorised construction and development in the Village Chhatarpur, New Delhi on the land

comprised in Khasra no.1039/2 (3-11), 1039/1/2 (0-16) and 1039 (0-9), situated in the revenue estate of village Chattarpur, NCT of Delhi.

(ii) issue a writ of mandamus and/or any other appropriate and similar writ, order or direction directing the respondent Nos.1 and 5 to exercise their powers and function under section 332, 333, 334, 343, 344 and 345A of the Delhi Municipal Corporation Act, 1957 and under section 22 and 81 of the Delhi Land Reforms Act, 1954 to demolish and remove all encroachments, illegal and unauthorised construction and development carried out in the Village Chattarpur, New Delhi on the land comprised in Khasra no.1039/2 (3-11), 1039/1/2 (0-16) and 1039/1 (0-9), situated in the revenue estate of village Chattarpur, NCT of Delhi.

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.....”

In the status report dated 26.7.2017, it is stated as under :

“1. That I am presently posted as Executive Engineer (Bldg.)-II, South Zone, SDMC, Green Park, New Delhi and am conversant with the facts of the case based on the official records maintained by SDMC am as such competent to depose thereto.

2. That pursuant to order 30/05/2017 passed by this Hon’ble Court the concerned Executive Engineer (Bldg.)-II, South Zone/SDMC along with SHO, PS Mehrauli, and Patwari, Revenue Department have jointly inspected the subject property in question i.e. khasra no.1039/2 (3-11), 1039/1/2 (0-16) and 1039 (0-9), situated in the revenue estate of village Chattarpur, identified as khasra No. 1039, DLF Farm, 6-A, link road, Chhatarpur, New Delhi in the presence of representative of petitioner on 5th June 2017 and during the said inspection and the main gate of the property was found locked and it has been noticed that the said property is consists of Ground floor and roof shuttering for First floor. However, no new construction activity was found going on at the time of inspection. The photographs as taken from the outside of the boundary wall of the property, in this regard are annexed as Annexure-R-1/A (Colly).

3. That moreover upon referring to the official record and on the basis of the same its status is as follows:

i) It is submitted that upon referring to the official record, it has been revealed that the said property stands booked for unauthorized construction vide file No. 160/UC/B-II/SZ/17 dated 05/04/2017 & vide No. 243/UC/B-II/SZ/17 dated 02/06/2017. In the shape of Ground floor and raising of columns for First floor u/s 343/344 of DMC Act, and upon following the due process of law in this regard the necessary demolition orders also stands passed by the competent authority i.e. the AE (Bldg), South Zone. The copy of the demolition orders/notices in this regard are annexed herewith as Annexure R-1/B (Colly).

(ii) Furthermore, letters bearing No. D-248/(B)-II/SZ/17 dated 20/04/2017 and D/567/AE(B)/SZ/17 dated 07/06/2017 and D/567/AE (B)/SZ/17 dated 07/06/2017 u/s 344 (2) of the DMC Act, have also been sent to SHO, PS. Mehrauli with the request that the said unauthorized construction be stopped immediately and workmen present at site/property in question be removed and construction material including the tools, machinery, etc. be seized. Copy of the said letters are annexed as Annexure-R-1/C. (Colly)

iii) Further letters for disconnection of electricity and water supply from the aforesaid property has also been sent to the concerned authorities vide letter No. D/249/(B)-II/SZ/17 dated 20/04/2017 copy of the said letter is annexed as Annexure R-1/D.

iv) Moreover, a letter bearing No. D/250/B-II/SZ/17 dated 20/04/2017 has also been sent to the Sub-Registrar with the request not to register this property under Indian Registration Act, 1908. Copy of the said letters are annexed as Annexure R-1/E.

v) It is also pointed out that in respect of the property in question as per record sealing, proceedings were also stands initiated u/s 345-A of DMC Act, 1957 and upon following due process of law in this regard the necessary sealing order was also passed by the Dy. Commissioner, South Zone, vide sealing file No. 2814/Seal. The copy of the sealing order as passed is annexed herewith as

Annexure R-1/F.

vi) Besides this, prosecution action u/s 466-A of DMC, Act has also been initiated against the owner/builder of the subject property and a complaint vide No. D-696/DC/Bldg-II/SZ/17 dated 19/06/2017 thereof has been sent to concerned SHO, PS Mehrauli, New Delhi. Copy of letter date 19/06/2017 is annexed as **Annexure-R-1/G.**

vii) Further it is submitted that in order to execute the aforesaid demolition order, the department taken the actions as per following details :

S.No.	Date of Action	Action Taken
1	23/05/2017	Upon availability of police force columns and beams of Varanda including shuttering with reinforcement, was demolished/ removed and one room wall was also demolished.
2	13/07/2017	Action could not be taken/carried out due to shortage of time.
3	24/07/2017	During the action demolished the partition wall at Ground floor, removing of shuttering rods and cutting of panels at roof slab of Ground floor and reinforcement are also cut down Upon availability of police force.

The photographs of the above referred demolition action in this regard are annexed herewith as **Annexure R-1/H(Colly).**

4. Pursuant to above referred demolition/sealing orders further action in respect of the property in question will be taken in due course of time during the monthly demolition schedule of the area upon availability of police force.”

In view of the action taken and contemplated, ld. Counsel for the petitioner submits that the petition is not pressed any further and that, liberty may be reserved to approach this Court afresh, if, a fresh cause of action arises. In view of the action taken and contemplated, as also in view of the statement that has come to be made on behalf of the petitioner, petition and the pending application are disposed off, with the liberty to the petitioner to approach this Court, if, a fresh cause of action arises.

A. K. CHAWLA, J

DECEMBER 04, 2017

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