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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 447/2017**

ATIQUUR RAHMAN & ORS Petitioners

Through: Mr.Naushad A. Khan, Adv.

versus

DR. PUNEET KUMAR GOEL & ORS Respondents

Through: Mr.Ajay Digpaul, Adv. for R1&2.
Mr.Siddharth Dutta with Mr.Mukul
Lather, Advs. for R-3 with SI Rohit
Kumar, PS Jamia Nagar.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **12.06.2017**

1. By the present contempt petition, the petitioners allege disobedience of order dated 19th May, 2017, passed by this Court in W.P.(C) No. 4346/2017. The proceedings pertain to a property at Plot No.35, Zakir Nagar (West), Jamia Nagar, Okhla, New Delhi. The order of this Court, passed on 19th May, 2017 reads thus:-

“Issue notice. Learned counsel for respondent No. 1,2 and 3 accepts notice. Notice to respondent No.4 be issued by ordinary mode as well as registered A.D. post returnable on 11th September, 2017.

Learned counsel for respondent No. 1 submits that the subject property has already been booked. Let the appropriate action be initiated for stopping the unauthorised construction within a period of two weeks. The action taken report along with the photographs be filed within a period of two weeks thereafter. Respondent No.3 shall provide police assistance to respondent No.1 as and when required. Respondent No.4 shall stop the unauthorised construction on the fifth floor on the roof of flat

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No.401, fourth floor, flat No.35, Zakir Nagar (West), Jamia Nagar, Okhla, New Delhi and shall file the photographs of the property within a period of two weeks from today.

List for considering the status report on 11th September, 2017.

Copy of this order be given dasti to counsel for the parties under the signature of the Court Master.”

2. Subsequently, the address of the property, as stated in para 3 of the said order dated 19th May, 2017 was corrected, vide order dated 26th May, 2017 to read as “plot No.35, Zakir Nagar (West), Jamia Nagar, Okhla, New Delhi” instead of “Flat No.35, Zakir Nagar (West)”.
3. It appears even prior to the passing of the above order by this Court on 19th May, 2017, communications have been addressed, on 01st May, 2017 and 16th May, 2017 by the SDMC to the Dy. Commissioner South East District, Sarita Vihar, New Delhi, fixing demolition/sealing programmes, including *inter alia*, of the property forming the subject matter of the present proceedings during the period 27th May, 2017 to 27th June, 2017.
4. The Additional Dy. Commissioner of Police, South East District, New Delhi, responded to the said communications, vide communication No. 12672/SED (X-III), dated 24th May, 2017 stating that the Jamia Nagar area was extremely volatile during the month of Ramzan, and that, therefore, peaceful execution of any demolition/sealing, in the said area, during the period i.e. 27th May, 2017 to 27th June, 2017 was not possible.
5. Accordingly, it was requested that any prospective programme for demolition/sealing during the period i.e. 27th May, 2017 to 27th June, 2017 be postponed.

6. Pursuant to the order passed in the present contempt petition on 09th June, 2017, Sh.Siddharth Dutta, Advocate for Respondent No.3 has handed-over a status report, dated 12th June, 2017. The said report avers that, on 09th June, 2017, a letter was received from the SDMC, intimating that they were going to take demolition action against the property in issue in the present case on 01st July, 2017 and 08th July, 2017, on which date, Respondent No.3 undertook to provide adequate police force. It is also stated, said status Report, that, after 19th May, 2017, no construction has been carried out at the said property and that the beat staff has been instructed to keep vigil over the property and ensure that no further construction takes place thereon.

7. In view of the said undertaking, and keeping in mind the fact that the direction in the order dated 19th May, 2017 (supra) passed by this Court thereon was only for initiation of appropriate action for stopping unauthorised construction, it is not possible to hold that the alleged contemnor is guilty of any contumacious disobedience of the directions issued by this Court, so as to expose him to contempt proceedings.

8. The present contempt petition is, therefore, disposed of with clear directions to the SDMC to ensure that the directions contained in the order dated 19th May, 2017, passed by this Court are complied with in letter and spirit and to Respondent No.3 to render all necessary assistance in this regard.

9. It is only proper, in this connection, to record the emphatic assertion by learned counsel appearing for the petitioner, that unauthorised construction continues to take place in the subject property.

10. It is made clear that the present contempt proceedings are being closed believing the assertion, in the status report filed by the SHO, that there has in fact, been no such construction after 19th May, 2017. In the event that the petitioner comes into possession of any evidence to indicate that, in fact, unauthorised construction continues to take place at Plot No.35, Zakir Nagar (West), Jamia Nagar, Okhla, he is at liberty to revive the present contempt proceedings.

11. With the above observations, the present contempt petition stands disposed of and the present proceedings are closed.

**C. HARI SHANKAR.
(VACATION JUDGE)**

**JUNE 12, 2017
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