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

+ **W.P.(C) 8983/2017**

SHIV SHANKAR GUPTA

..... Petitioner

Through: Mr Shakil Akhtar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr Anuj Aggarwal, ASC, GNCTD
for R1 to R3.

SI Rahul Kumar, P.S. Kalkaji, N.D.
present in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.10.2017

1. The principal grievance of the petitioner as articulated in the present petition relates to alleged inaction on the part of the police authorities in respect of the petitioner's complaint. The petitioner states that he had filed the complaint dated 05.09.2017 with P.S. Kalkaji, New Delhi-110019 and had requested that appropriate action be taken against respondent nos. 4 and 5 for illegally and unauthorizedly entering/trespassing into petitioner's premises located at 1853, C/10, G.F., Govindpuri Extension, Kalkaji, New Delhi on 01.09.2017. The petitioner has further prayed that respondent State be directed to comply with their statutory duty and take appropriate action on the criminal complaint filed by the petitioner.

2. It is at once clear that the petitioner has an alternate remedy. In the event the petitioner is aggrieved by non-registration of an FIR, he has remedies available under the Criminal Procedure Code.

3. Mr Anuj Agarwal, the learned counsel who appears for respondent nos. 1 to 3 on advance notice has submitted a status report, which, *inter alia*, indicates that certain complaints have also been made by Government Girls Secondary School Phase-II, DDA Flats, Kalkaji, New Delhi, regarding encroachment by the petitioner. The relevant extract of the status report is set out below:

"9. It is also pertinent to note that complaints against unauthorised construction and encroachment of public pavement beside the Government Girls Secondary School Phase-II, DDA Flats, Kalkaji, New Delhi was moved by the School Authority. It was specifically against the Public Pyau constructed and a temporary platform erected with tiles of Hindu Gods and Goddess by Sh. Shiv Shankar Gupta beside the boundary wall of the school as well as encroachment by the Water Tankers parked there. The said encroachment is a big obstacle for Emergency Gate proposed to be constructed under evacuation plan of the school in case of any emergent situation. As the matter pertains to SDMC authority, therefore, the matter regarding encroachment alleged to have been done by Sh. Shiv Shankar Gupta was referred to the Dy. Commissioner, Central Zone, SDMC, Lajpat Nagar, New Delhi for taking appropriate action. This issue continues to be a contention between the complainant Shiv Shankar Gupta and the School Authority.

10. Sh. Saurabh Bhardwaj is a sitting MLA of Greater Kailash constituency (AC-50) of Aam Aadmi Party. The Govt. Girl. Sr. Secondary School Phase-II, DDA Flats, Kalkaji, New Delhi is also under Directorate of Education, Govt. of NCT of Delhi and a part of his constituency. Therefore, mere visit to the unit of complainant along with the School Principal Ms. Nisha Dhawan by a public representative in view of the safety of school's children and to find out the solution to the

obstacle in proposed emergency evacuation plan to deal with any kind of disaster in the school does not come under the purview of crime of trespass.

11. In view of the above facts and circumstances, the allegations levelled by the complainant could not be substantiated and no cognizable offence is found to be made out. Therefore the above complaint was filed."

4. It appears from the aforesaid status report that there are certain disputes pending between the petitioner and the said Government Girls Secondary School Phase-II, DDA Flats, Kalkaji, New Delhi and the said matter has also been inquired into.

5. The learned counsel for the petitioner submits that the aforesaid complaints regarding encroachment are concocted. It is seen that the petition is completely silent as to the said complaints and the dispute between the School Authorities regarding parking of tankers. The petitioner has disclosed that complaint regarding alleged illegal drawing of ground water had been made, but the petitioner had concealed the disputes regarding parking of tankers and alleged encroachment as is indicated in the status report.

6. Accordingly, the present petition is dismissed with cost quantified at ₹10,000/-. The said cost shall be deposited with the Delhi High Court Legal Services Committee within a period of two weeks from today.

VIBHU BAKHRU, J

OCTOBER 13, 2017

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