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

+ W.P.(C) 9334/2015 & CM APPLs. 21615/2015, 28293/2015 and 46579/2016

ARJUN KUMAR Petitioner

Through Mr. J.V. Rana, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION & ANR

..... Respondents

Through Ms. Sandhya Kohli, Adv for R-1.

Mr. Satyakam, ASC for R-2.

Mr. Shiv Charan Garg, Adv for the applicant Mr. Tek Chand.

Mr. Varun, Adv for Mr. Amit Rana, Adv for the applicant.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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20.09.2017

By the instant petition filed under Article 226 of the Constitution of India, the petitioner, prays, as follows:

“A. issue an appropriate writ order or direction in the nature of writ of certiorari thereby quashing the impugned order dt. 28-08-2015 passed by respondent No. 2 in respect of the outer periphery boundary wall, in open land/plot bearing Khasra No's 430/61/2(1-7) and 432/64/2 (5-8) total measuring (6-15) situated in the revenue estate of Village Azadpur Delhi-110033, in the interest of justice and equity.

B. Issue an appropriate writ order or direction in the nature of writ of mandamus thereby restraining the respondent No.1 its officials employees etc from demolishing the outer periphery boundary wall, in open land/plot bearing Khasra No's 430/61/2 (1-7) and 432/64/2 (5-8) total measuring (6-15) situated in the revenue estate of Village Azadpur Delhi-

110033, in the interest of justice and equity.

C. Any other appropriate Writ, Order or direction this Hon'ble Court may deem fit and proper in the facts and circumstances of the preset petition, may also be issued/passed in favour of the petitioner and against the respondent No.1, in the interest of Justice and Equity.

And for this act of kindness the petitioner as is duty bound shall ever pray."

The impugned order came to be passed by the SDM/RA exercising the jurisdiction under the provisions of the DLR Act. During the course of the instant proceedings, an additional affidavit in pursuance of the directions of this Court on 20.01.2017, has come to be filed and paras 4 and 5 thereof, read, as under:

"4. That it is submitted that the order dt. 28.08.2015 was passed by the S.D.M., Model Town on the complaints filed by Sh. Tek Chand & Ors. It is pertinent to mention herein that in the said order dated 28.08.2015, the then Revenue Assistant/SDM mentioned DLR Act only in regard to challenge of the mutation entry. The Counter – affidavit filed by deponent on 18.10.2016 has indicated that since village Azadpur is an urbanized village, so the provisions of DLR Act are not applicable. (Para B of reply to grounds of the Counter – Affidavit dt. 18.10.2016).

5. That it is further reiterated that the land bearing Khasra No.430/61 & 432/64 falls in village Azadpur, Delhi, which is an urbanized village on which the provision of Delhi Land Reform Act are not applicable."

In view of the abovesaid depositions, Mr. Satyakam, Ld. ASC for the respondent no.2 fairly concedes that the impugned order cannot be sustained and is liable to be quashed. What is conceded to by Mr. Satyakam, in view of the foregoing depositions in para 4 and 5 of the abovesaid additional affidavit, does not require any elaboration and it necessarily implies therefrom, that the impugned order has come to be passed by the SDM/RA without jurisdiction.

The impugned order is therefore, quashed. Writ petition and all the pending applications stand disposed off accordingly.

A. K. CHAWLA, J

SEPTEMBER 20, 2017

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