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

Judgment pronounced on: 21.02.2018

+ W.P.(C) 1146/2013

DABUR ENCLAVE (S R BLOCK A) RAWTA MORE
RESIDENTS WELFARE
ASSOCIATION (REGD) Petitioner

Through : Mr. Kirti Uppal, Sr. Adv.
with Mr. D.V. Khatri and
Mr. Aman Bhalla, Advs.

versus

GOVT OF NATIONAL CAPITAL TERRITORY OF
DELHI AND ANR. Respondents

Through : Mr. Santosh Kumar Tripathi,
ASC for GNCTD with Mr.
P. Vashishtha and Mr.
Santosh S. Tiwari, Advs.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

1. The substantive prayer made in the writ petition is as follows:-

- a) *Issue a writ of mandamus directing the respondents not to interfere in any manner with the peaceful enjoyment and possession of the house of the residents of petitioner association in respect of properties which are mentioned in the list of residents of Dabur Enclave (SR Block A), Dwarka More Residents Welfare Association, Jafarpur, Najafgarh, Delhi*

forming part of unauthorized colony known as Dabur Enclave (SR Block A), Dwarka More Residents Welfare Association, Jafarpur, Najafgarh, Delhi and also in respect of Kh. Nos. mentioned layout plan which has been issued provisional certificate of regularisation by the respondent no.1; and

b) Issue a writ or direction in the nature of mandamus thereby directing respondents to abide by the policy and guidelines framed in respect of unauthorized colonies and the provisions of National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 and not to take any contrary and arbitrary action of pick and choose of demolition/ dispossession in respect of the properties of the members of the petitioner association; and

c) Issue a writ in the nature of declaration declaring the act of the respondents in threatening to take action for demolition in respect of the properties of the members of the petitioner association as being in violation of the guidelines and policy framed for regularisation of unauthorized colonies and the provisions of National Capital Territory of Laws (Special Provisions) Second Act, 2011; and

d) Issue a writ in the- nature of mandamus thereby directing the respondent no.1 to take final decision with respect to regularisation of unauthorized colonies and more particularly in respect of Petitioner Association

2. Notice in this petition was issued on 22.2.2013, when, an ad-interim ex-parte order was passed, whereby respondents were

directed not to take any coercive measures qua the houses of persons who claimed to be members of the petitioner association and whose names (except at serial no.259) were set out in Annexure P-2, appended at page 87 to 94 of the paper book.

3. The petitioner association had approached this court, principally, on the ground that houses in their colony, that is, Dabur Enclave, which, concededly is an unauthorized colony was under the threat of demolition while the matter concerning its regularization was being considered by the respondents.

3.1 The petitioner association has claimed that its name is set forth against Serial No.1054, in the list of unauthorized colonies, drawn up by the respondents.

4. To be noted, in the list, the respondents had shown 1639 colonies as unauthorized colonies. Petitioner association, admittedly, is a colony which was set up prior to 2007.

4.1 It is in this background that interim protection was granted by this court.

5. I must also indicate that this court, in a series of orders including those which are referred to hereafter has granted such protection to unauthorized colonies pending regularization: -

(i) Judgment dated 6.8.2008, passed in WP(C)No.7126/2007 titled : *N.B. Residents Welfare Society vs. Union of India & Ors.* (page 190)

(ii) Judgment dated 15.7.2011, passed in WP(C)No.4919/2011 titled : *Mrs. Meeta Chakraborty & Ors. vs. Govt. Of NCT of Delhi & Ors.* (page 197)

(iii) Judgment dated 9.9.2008, passed in WP(C)No.6425/1998 titled : *Shri Mange Ram & Ors. vs. Union of India & Ors.* (page 199)

6. This apart, the respondents have, admittedly, issued a provisional regularization certificate to the colony in issue i.e., Dabur Enclave (SR Block A). This certificate which was issued on 17.9.2008 is appended as Annexure P-8 to the petition.

7. Mr. Tripathi, who appears on behalf of the respondents, does not dispute the aforesaid position. Mr. Tripathi's only contention is, that mere issuance of the provisional regularization certificate in favour of Dabur Enclave would not automatically lead to a situation that the colony will be ultimately regularized.

7.1 It is Mr. Tripathi's submission that the concerned colony would have to fulfil the provisions of the revised 2007 guidelines and regulation dated 24.3.2008, read with subsequent amendments.

7.2 Mr. Tripathi, however, does fairly indicate that the process of regularization is on and therefore, the respondents do not intend to take any coercive measures pending completion of the process. The only concern of the learned counsel is that the residents of the petitioner association should not carry on fresh construction. Learned counsel in line with this submission says that coercive measures would be taken against only those constructions which were carried out after 2007.

8. Mr. Uppal, who appears on behalf of the petitioner association, says that the residents will have no objection to this stand of Mr. Tripathi. In other words, construction made post 2007

can be demolished.

9. Thus, having regard to the aforesaid facts and circumstances, I am inclined to close this writ petition and confirm the interim order dated 22.2.2013 with the caveat that in case regularization is not granted to Dabur Enclave, the consequences provided in law would follow. The respondents will also be free to take recourse to requisite measures in respect of structures erected by the residents of Dabur Enclave after 2007.

9.1 Needless to say, the respondents will, carefully, first establish, by giving due opportunity to the concerned resident that the structure in issue was erected after 2007 if demolition is intended to be carved out.

10. It is made clear that the fact that regularization is pending would not be used as an excuse by the respondents to carry on with work of providing requisite amenities to the residents of the petitioner association.

11. The writ petition is disposed of in the above terms. No costs.

RAJIV SHAKDHER, J

FEBRUARY 21, 2018

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