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

+ LPA 404/2018 & CM Nos.29733-29734/2018

USHA RANI Appellant

Through: Mr. Sunil K. Jain, Advocate

versus

GOVT OF NCT OF DELHI & ORS Respondents

Through: Ms. Shefali Vohra, Advocate for
respondent No.1

Ms.Anju Gupta & Mr. Roshan Lal
Goel, Advocates for respondent No.2

Ms. Mini Pushkarna, Standing
Counsel with Ms. Swagata Bhuyan &
Ms. Shiva Pandey, Advocates for
respondent No.3

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **27.07.2018**

Appellant has filed WP(C) No.6702/2018 on the assertion that Sections 330A and 349A of the Delhi Municipal Corporation Act, 1957 are contrary and repugnant to provisions of part IX-A of the Constitution of India. Accordingly, the demolition order passed by the Commissioner and other actions are contrary to law.

We are in agreement with the learned single Judge who has issued notice, but declined to grant stay against demolition. Impugned order passed by the learned single Judge dated 5.7.2018 records that construction in property bearing No.2464, Bazar Sita Ram, Delhi-

110006 is unauthorised and has not been undertaken in terms and under the provisions of building bye-laws and the sanctioned plan.

If the plea of the appellant is to be accepted at this stage, then the provisions of the Delhi Municipal Corporation Act, 1957 and the building bye-laws relating to unauthorised construction cannot be enforced and applied across Delhi. Mere assertion on repugnancy and issue of notice does not mean that writ petition would be allowed.

The appellant has an alternative remedy to challenge the demolition order by filing an appeal.

Learned counsel for the appellant has drawn our attention to the order dated 13.10.2009 by a learned Single Judge of this Court passed in WP(C) No.12360/2009, **Ravi Kumar & Ors. v. Union of India & Ors.** and asserts that a similar plea was raised and stay order was passed. On being asked about the status of WP(C) No.12360/2009, it is stated that the said writ petition was dismissed in default. In view of the said position, we observe that the order dated 13.10.2009, passed in WP(C) No.12360/2009, would not justify interference with the impugned order.

The appeal is dismissed, with no order as to costs. All pending applications are also dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JULY 27, 2018

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