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

+ W.P.(C) 7845/2018

RAVINDRA PRASAD JUYAL Petitioner
Through: Mr. D S Patial, Advocate

versus

SOUTH DELHI MUNICIPAL CORPORATION AND
ORS. Respondents
Through: Ms. Garima Prshad with Mr. Shadab
Khan, Advocates

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

% **30.07.2018**

The present proceedings under Article 226 of the Constitution of India has been instituted on behalf of the petitioner praying for a direction to the South Delhi Municipal Corporation (hereinafter referred to as 'SDMC') to demolish the purported unauthorised construction being raised on Plot bearing No. RZ-1/85, admeasuring 206 square yards situate in Mahavir Enclave, Palam, New Delhi- 110 045 (hereinafter referred to as 'the subject property') by respondent nos. 2 to 5.

It is an admitted position that the petitioner and respondent nos. 2 to 5 are brothers.

Late Shri Govind Ram Juyal, the father of the petitioner had purchased the subject property and after his death on 13th October, 1991, his legal heirs relinquished their shares in the

aforesaid property in favour of their mother, Smt. Rameshwari Devi.

It is the petitioner's assertion that after the demise of Smt. Rameshwari Devi, respondent nos. 3 to 5 obtained her signatures on blank papers, ostensibly, for the reason of management of the subject property and although, the same have devolved upon the petitioner and the respondent nos. 3 to 5 in equal shares, the latter are reluctant to give the petitioner a share. The petitioner further states that, in his absence, respondent nos. 3 to 5 have demolished the old structure and started raising an unauthorised construction over the subject property in order to grab his share.

The petitioner states that he has reported the above circumstance to the Commissioner of SDMC, Najafgarh Zone, as well as, the SHO, PS Dabri, but to no avail.

Predicated only on the above, learned counsel appearing on behalf of the petitioner submits that, the SDMC be directed to demolish the construction in the subject property.

Learned counsel appearing on behalf of the SDMC, on instructions, states that, repair and maintenance work, in accordance with law, is being carried out in the subject property.

A perusal of the photographs annexed to the present petition support the submission that, additions/alterations are being carried out in the subject property which is predominantly residential.

In my view, the present petition has been occasioned on account of the dispute that squarely exists between the petitioner on one hand and his brothers on the other, in relation to the subject property. The present proceedings are evidently being used as a

vehicle to persuade the petitioner's brothers to settle with him.

In any event, this Court cannot exercise extraordinary jurisdiction conferred under Article 226 of the Constitution of India to determine the respective rights of parties in relation to the subject property. Therefore, in the afore-stated facts and circumstances of the present case, the present proceedings cannot be entertained. The petition is accordingly dismissed.

Needless to state that, the SDMC shall ensure that no unauthorised construction contrary to the building bye-laws is raised in the subject property.

SIDDHARTH MRIDUL, J

JULY 30, 2018

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