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

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Reserved on: 13th December, 2018
Pronounced on: 18th December, 2018

+ **CM(M) 371/2015, CM APPL.No.7826/2015**

THE COMMISSIONER OF POLICE

..... Petitioner

Through: Ms.Warisha Farasat, Advocate
SI Manish Tyagi, PS-Gandhi
Nagar

versus

GAYATRI & ORS

..... Respondents

Through: Mr.Aman Bakhshi, Advocate for
Mr.Gaurang Kanth, standing
counsel for EDMC

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. This petition challenges the impugned order dated 28.08.2014 passed by the learned Civil Judge who while disposing of the civil suit between the two private parties have given certain directions to the Commissioner of Police to organize training programmes for the police officials and also to take action against the SHO concerned. The only short question raised before me is if in a lis between the two private parties, can a trial court travel beyond the pleadings to pass such like directions since is not exercising writ jurisdiction.

2. Admittedly the civil suit was for permanent and mandatory injunction between the private parties wherein prayer was made to

restrain the other from raising illegal construction and to demolish such construction. However during the course of the proceedings the matter was settled between the parties and they made statements before the learned Presiding Officer. The suit was thus disposed of and decree sheet was ordered to be prepared. Thereafter the learned Civil Judge proceeded to give following directions:

“14. At this stage Ld. Counsel Shri R.S. Juneja, who is present today, in the court seeks permission of the court to assist in the instant matter. It is submitted on behalf of Shri R.S. Juneja that copy of the instant order be sent to” Commissioner of Police so that appropriate action can be initiated at PAN Delhi level. This court is thankful for the able assistance rendered by Ld. Counsel Shri R.S. Juneja. This court also concurs and agrees with the submissions of Shri R.S. Juneja that menace of unauthorized construction is pandemic in nature. The entire Delhi is stung by the fangs of menace of unauthorized construction, and appropriate preventive action ought to be initiated at appropriate levels to check this menace. Copy of the order be accordingly sent to the worthy commissioner of Police who may, if desirable, design a proper training program for all the concerned SHOs reminding them of their pious duties to initiate appropriate and timely action in the matters of likewise nature. Copy of the instant order be also sent to worthy commissioner EDMC, who shall, ensure proper training programs for the officers/officials assigned with the pious "function of checking/regulating the menace of unauthorized instruction in the country. It is further expected of worthy commissioner EDMC and worthy commissioner of Delhi Police that this court shall be duly apprised about the remedial action initiated at their end to ensure the non recurrence of such an event.

15. Accordingly, now to come up for considering the reply of the concerned SHO in the matter on 23.09.2014. Copy of the instant order be also provided dasti to SI C.P. Singh for its onward transmission to SHO Inspector Manoj Kumar, Gandhi Nagar for ensuring compliance.”

3. The coordinate Bench of this Court in *University of Delhi and Anr. vs. Dr.(Mrs.) Neelam Gaur* 2002 (63) DRJ 469 held as follows:

“9. This Court on a consideration of the entirety of the matter from different angles is of the view that the competence and jurisdiction of a civil court while deciding a civil suit cannot be equated with the jurisdiction vested in the Supreme Court under Article 32 or of High court under Article 226 of the Constitution. The scope and proceedings in a civil suit and the proceedings under writ are quite distinct. The power of the Supreme Court under Article 142 is meant to supplement the existing legal framework - to do complete justice between the parties - and not to supplant it. The Article provides that the Supreme Court in exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any 'cause' or 'matter', which would include any proceeding pending in Court and would cover almost every kind of proceeding in Court. The directions given by the Supreme Court in the case of Dr. V.L. Chandra (Supra), it appears were given by the Supreme Court in exercise of its inherent powers under Article 142 of the Constitution. Whether similar directions can also be given by a civil court in a civil suit based on specific averments and pleas and for specific relief(s), the answer would be a plain 'no'. This would be more so in a civil suit where the court has declined to grant a decree for substantial relief, Civil court does not possess any inherent power to give directions of general nature and far reaching effect to the defendant whatever laudable object such directions may seek to achieve. In the case in hand this is what has exactly happened. The court found that the plaintiff was not entitled to the relief(s) as sought in Clauses (a) and (b) on the face of statutory regulations/ordinances of the appellant University and still it has given the directions not only to the appellee but also to the Government of N.C.T. of Delhi, which was not a party to the suit. In the opinion of this court the courts below ought to have decided the suit either by decreeing it for the reliefs claimed or dismissing it but they had no competence to give directions of such far reaching consequences and that too without giving an opportunity to the concerned quarters who were supposed to take action pursuant to such directions.”

4. In view of the above since a Civil Court does not possess inherent power to give directions of general nature having far reaching effect, whatever laudable object such directions may seek to achieve viz. giving

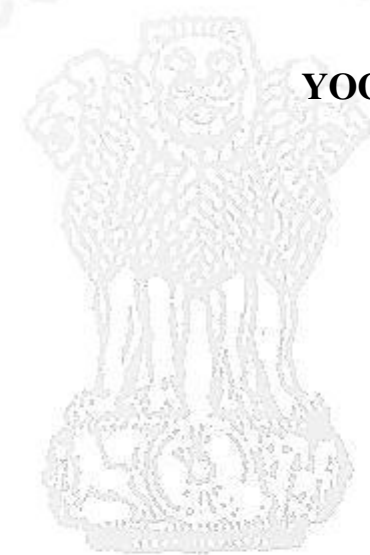
trainings to its officers by the petitioner, such directions ought not to have been passed especially, when the lis before the court did not require passing such directions. Hence the order dated 28.08.2014 is set aside so far as it relates to the directions given to the petitioner herein. However, this order shall not come in the way of petitioner organising such programme at his own discretion.

5. The petition and pending application stands disposed of in terms of the above.

YOGESH KHANNA, J.

DECEMBER 18, 2018

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