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

Date of Decision: 11.09.2018

+ LPA 508/2018

SAIN MAHASABHA NARAINI DHAM Appellant
Through: Mr. Rajeev Ranjan Pandey, Advocate

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Mahender Kr. Bhardwaj with
Mr. K.C. Dubey, Advocates for R-1
Mr. Ajay Verma, Sr. Standing
Counsel with Mr. Nirvikar Verma,
Advocate for DDA

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

RAJENDRA MENON, CHIEF JUSTICE (ORAL)

CM APPL. 35946/2018 (*exemption*)

Allowed, subject to just exceptions.

The application stands disposed of.

LPA No.508/2018 & CM No.35945/2018 (Stay)

1. Seeking exception to an order passed by the learned writ Court on 12.01.2018 in a pending writ petition clarifying that respondent No.7 is not interdicted in removing any encroachment on DDA land, this appeal has been filed under Clause 10 of the Letters Patent.
2. A perusal of the prayer made in the writ petition filed by the appellant goes to show that the appellant (a trust) was aggrieved by non-consideration of their representation and inability of the authorities in holding election to

the trust/society in time and particular act of respondent No.13 of the writ petition in not proceeding to hold election to the office of trust in question. Finding respondent No.13 in the original writ petition to have disobeyed certain orders passed in the matter of filing of the affidavit and bringing on record the statement of accounts of the trust, notice has been issued to respondent No.13 as to why contempt action should not be taken against him and in the meanwhile, he has been restrained from withdrawing any fund from the bank account of the society or the *daanpatra*. However, while doing so in para (7) the learned writ Court has issued the following clarifications:

“7. It is also clarified that respondent no.7 is not interdicted in removing any encroachment on the DDA land.”

3. Grievance of the appellant is that this clarification would result in DDA taking action against the appellant society for removal of the encroachment.

4. In our considered view the question of encroachment is not an issue pending in the writ petition and as DDA was a party in the writ petition it seems that in the counter affidavit filed DDA has indicated various aspects with regard to encroachment. Taking note of these averments of the DDA as a measure of abandoned precaution, the learned writ Court has only clarified the position as reproduced hereinabove and in doing so in our considered view no error has been committed by the writ Court.

5. The question of encroachment on DDA's land and the right available to the DDA to remove the encroachment is not a *lis* pending in the writ Court and, therefore, if the aforesaid clarification is only to avoid confusion

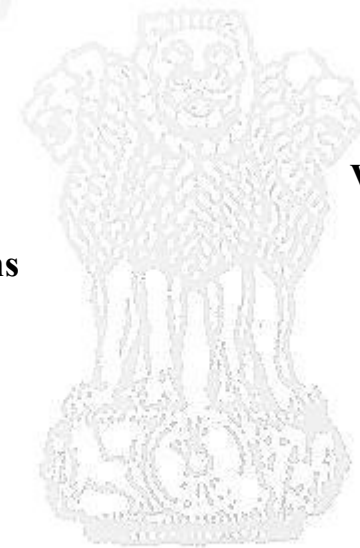
in the matter, the same cannot be faulted with. In case the appellant has any grievance with regard to action that may be taken by the DDA, it will be a different cause of action and the appellant can always take recourse to the remedies available under law for the said cause.

6. Accordingly, in view of the reasons indicated hereinabove, we see no reason to make any indulgence into the matter. The appeal along with pending application stands dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

SEPTEMBER 11, 2018/ns



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