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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgement: 17th April, 2018

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W.P.(C) 9816/2017

AKASH BANSAL

..... Petitioner

Through: Mr. Navin Kumar Jha,
Advocate

versus

DY. COMMISSIONER, SDMC AND ORS. Respondents

Through: Mr. Rakesh Mittal, Standing
Counsel for SDMC with Mr.
Kamlesh Anand & Ms. Yamini
Mittal, Advocates
Mr. Devesh Singh, ASC (Civil)
GNCTD with Ms. Sukriti Ghai,
Advocate for R2 & R3

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**W.P.(C) 10006/2017, C.M. APPL. 46995/2017, C.M. APPL.
2434/2018 & C.M. APPL. 5987/2018**

J ONE JAN SAMUH SEVA SAMITI (NGO) Petitioner

Through: Mr. Navin Kumar Jha, Adv.

versus

DY COMMISSIONER SOUTH DELHI MUNICIPAL

CORPORATION AND ORS Respondents

Through: Mr. Tushar Sannu, Advocate
Mr. Varun K. Chopra with Mr.
Gurtypal Singh, Advocates for
R5 & R6
Mr. Sanjoy Ghose, ASC with
Mr. Rishabh Jetley, Mr. Swetan,
Advocates for GNCTD
Mr. Anuja Kapur, Amicus
Curiae

CORAM:-

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR JUSTICE C. HARI SHANKAR

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JUDGMENT (ORAL)

C. HARI SHANKAR, J.

1. We had, *vide* our order dated 17th April, 2018, dismissed these writ petitions, with costs, quantified by us at ₹ 50,000/–, to be deposited by Mr. Akash Bansal and Mr. Navin Kumar Jha, advocate, with the Delhi High Court Legal Services Committee, within eight weeks from 17th April, 2018, and to place proof of such deposit before the Registrar (Appellate) of this Court. We had stated that reasons for the order would follow; by this judgement, we proceed to record the said reasons.

2. This case presents an example of a malaise that has, in the recent past, begun to gnaw at the vitals of the entire public interest litigation institution, which is the life blood of the exercise of human rights jurisdiction by this – and, indeed, by any – Court.

3. Akash Bansal, a young man of 27, student of law at the Chaudhry Charan Singh University at Meerut and self-professed public interest *vigilante*, moved this Court by way of WP (C) 9816/2017, alleging that rampant unauthorised construction was taking place at Khasra Nos 595 and 658, Devli Village, New Delhi, and exhorting us to intervene and ensure that the said illegal and unauthorised constructions were demolished forthwith. The writ petition was filed through Mr. Navin Kumar Jha, advocate. *The writ*

petition has been signed on 25th October, 2017. It is significant to note that the affidavit, accompanying the writ petition, was verified and attested by the Oath Commissioner on 25th October, 2017, and that the writ petition was first filed on 30th October, 2017 and, after removing the objections noted by the registry, refiled on 3rd November, 2017. Mr. Akash Bansal disclosed his address, in the affidavit accompanying the writ petition, as “RZ-2966/33, Tughlakabad Extension, New Delhi-110019”.

4. WP(C) 10006/2017 was also filed, *through Mr. Navin Kumar Jha, advocate, and is signed 25th October, 2017.* This writ petition also complains of illegal and unauthorised constructions, and exhorts this Court to intervene and ensure demolition thereof. The properties in question, in this writ petition, interestingly, are “**RZ-2965**, RZ-2940, RZ-2931, RZ-2933, Gali No. 33, Tughlakabad Extension, New Delhi-110019”. Clearly, among the said properties, of which demolition was sought, in this writ petition, was included “RZ-2965”, *which is the property immediately adjoining that of Mr. Akash Bansal. The other properties, forming subject matter of this writ petition, too, appear to be properties neighbouring that of Mr. Akash Bansal.* However, this writ petition was filed by an institution which styles itself “J One Jan Samuh Seva Samiti”, and purports to be a Non Governmental Organization (NGO), “*working for the cause of welfare of people*” and operating from J-313/18, G/F, Gupta Colony, Sangam Vihar. The writ petition has been filed through “*its President Noor Banu w/o Sh. Mohd. Sabir, R/o S-37/C-72, Gali No.6, Nehru Camp, Govindpuri, New Delhi-110019*”. Interestingly, this writ petition was first filed on

3rd November, 2017 and, after removal of objections, refiled on 9th November, 2017.

5. **Proceedings in WP (C) 9816/2017**

5.1 Notice, to show cause as to why *rule nisi* be not issued, was directed, in WP (C) 9816/2017, on 7th November, 2017, returnable on 26th February, 2018.

6. **Proceedings in WP (C) 10006/2017**

6.1 WP (C) 10006/2017 came up for preliminary hearing, before this Court, on 13th November, 2017, when we issued notice, to show cause as to why *rule nisi* be not issued, and directed counter affidavits/status reports to be filed by the official respondents upon physical inspection of the property forming subject matter of the writ petition. The matter was directed to be renotified on 26th February, 2018.

6.2 Before the next date of hearing, on or around 20th December, 2017, CM 46995/2017 was filed in WP(C) 10006/2017, by the petitioner, seeking to withdraw the writ petition. The said application, which consists of three brief paras, may be reproduced, *in extenso*, thus:

**“APPLICATION BY AND ON BEHALF OF
PETITIONER U/S. 151 CPC SEEKING
WITHDRAWAL OF THE PRESENT PETITION”**

MOST RESPECTFULLY SHOWETH

1. *That the petitioner has filed the present PIL against the illegal and unauthorized construction carried out at Tughlakabad Extension, New Delhi, which is pending before this Hon'ble Court and same is fixed for 26.2.2018.*

2. *That it is submitted that the petitioner has filed the present PIL on the basis of the complaints received from the residents of the locality against the illegal and unauthorized construction, however, later on the petitioner came to know that the said complaints were false and frivolous.*

3. *That in view of the above, the petitioner does not want to pursue further in the present PIL as such seeks kind indulgence of this Hon'ble Court to withdraw the present petition.*

It is therefore prayed that this Hon'ble Court may kindly be pleased to allow the petitioner to withdraw the present petition, in the interest of justice.

New Delhi

Dated 20/12/2017

Through

*Pankaj Kumar Gupta & Associates,
Advocates,
482, Saket Court Complex,
New Delhi-110017"*

6.3 As is apparent from the body of the application as extracted hereinabove, CM No. 46995/2017 was filed by M/s. Pankaj Kumar Gupta and Associates, with their chamber at 482, Saket Court Complex, New Delhi-110017, without the requisite "no objection"

from M/s. Navin Kumar Jha and Associates, who had filed WPC 10006/2017.

6.4 CM 46995/2017 was listed, before this Court, on 22nd December, 2017. On the said date, both Mr. Navin Kumar Jha, as well as Mr. Pankaj Kumar Gupta, appeared. Mr. Navin Kumar Jha sought to withdraw himself, from the proceedings, on the ground that his client had engaged Mr. Pankaj Kumar Gupta. However, in view of the fact that no “no objection”, of Mr. Navin Kumar Jha, permitting his client to engage another counsel, was forthcoming on record, this Court passed the following order, on the said date:

“CM No.46995/2017

1. *This application has been filed through a counsel without obtaining No Objection Certificate from the counsel on record. This Court takes a serious view of the matter.*

2. *The application has been filed by one Ms. Noor Bano, who is present in the Court and states that she is the President of the petitioner-society, claiming that the original writ petition filed in Public Interest Litigation was based on the “complaints received from the residents of the locality against the illegal and unauthorized construction.*

It is submitted by the applicant that later on it “came to know that the said complaints are false and frivolous.”

3. *This application has not only been filed inappropriately without the knowledge of the counsel who has filed the original writ petition without seeking his discharge and no objection certificate, but it also*

does not disclose as to what was “false and frivolous” in the complaints.

4. The applicant shall file a detailed affidavit setting out the property against which she has complained in the writ petition and also the details of the information which was “false and frivolous”. Such affidavit shall be filed in the Registry within one week from today.

5. The South Delhi Municipal Corporation shall place a status report on record positively before the next date of hearing, after conducting a physical inspection of the properties.

6. Ms. Noor Bano shall remain present on the next date of hearing.

List on 4th January, 2018.”

6.5. On 2nd January, 2018, a status report, as directed by us *vide* our initial order dated 13th January, 2017, was filed on behalf of the South Delhi Municipal Corporation (SDMC), setting out the action proposed to be taken in respect of the unauthorized construction forming subject matter of the writ petition. *Vide* our order dated 4th January, 2018, we took the said status report on record. On the said day, Mr. Navin Kumar Jha again appeared on behalf of the petitioner, and submitted that the affidavit, in terms of the order dated 22nd December, 2017, could not be filed, as he had been out of station. Accordingly, we granted two weeks’ further time to file the said affidavit and renotified the writ petition for 26th February, 2018.

6.6. On 9th February, 2018, CM 5341/2018 was filed, in WP(C) 10006/2017, by Respondent No. 5 in the writ petition (Mr. Ram

Pranesh); however, as the said CM is not of particular significance at this stage, we do not propose to allude, in detail, thereto.

6.7. On 26th February, 2018, we queried of Ms. Noor Bano, the avowed “President” of the petitioner-NGO, who informed us that she had never personally visited the properties, at Tuglakabad Extension, of which WP (C) 10006/2017, sought demolition. She further informed us that she, as well as the other members of the governing body of the petitioner-NGO, Mr. Jai Kishan, Mr. Shamsheer Singh, Mr. Desh Raj, Ms. Zarina, Mr. Abdul Rehman and Mr. Shamshad, were all residents of Sangam Vihar. At that stage, Mr. Varun Chopra, learned counsel appearing for Respondents No. 5 and 6, voiced a grievance that the writ petition was completely motivated and, in support of this grievance, placed, before us, photographs of the property RZ-2933/33, Tughlakabad Extension, which was owned and occupied by his clients. He pointed out, to us, that the said property consists of only two storeys, whereas no grievance was made, in the writ petition, regarding surrounding properties, also illegally constructed, of 5-6 storeys – which included, incidentally, the property owned by Mr. Akash Bansal.

6.8. At this stage, Ms. Noor Bano, who was completely agitated, and was unable to even converse in English, interrupted the proceedings, complaining that she was an illiterate lady, with no source of income and having no concern and interest in WP (C) 10006/2017, the properties referred to therein, or their demolition. On her attention being invited to the fact that she had signed the said writ petition, as

“President” of the “J One Jan Samuh Seva Samiti”, she stated that she had been misled into doing so, and that the writ petition was actually a proxy litigation of Mr. Akash Bansal, Advocate, who was the neighbor of Respondents No. 5 and 6 and a resident of property no. RZ-2966/33, Tughlakabad Extension, New Delhi-110019. She further alleged that the said Akash Bansal worked with Mr. Navin Kumar Jha, Advocate who had filed WP 10006/2017, further informing us that Mr. Akash Bansal himself had filed WP (C) 9816/2017, as again through Mr. Navin Kumar Jha, advocate, in which he had disclosed his address as RZ-2966/33, Tughlakabad Extension, New Delhi-110019, and had sought demolition of alleged unauthorized constructions at Khasra Nos. 658 and 595, Devli Village, New Delhi.

6.9. This presented a very unsettling scenario, in which, on the face of it, it appeared that Mr. Akash Bansal, Advocate, was prosecuting WP (C) 9816/2017, in his own name, seeking demolition of properties located far from his residence and in a different village, and WP (C) 10006/2017, through “J One Jan Samuh Seva Samiti (NGO)”, which appeared to be a proxy organization set up so as to provide a smokescreen and conceal the involvement of Akash Bansal therein, seeking demolition of the properties of his immediate neighbours. In the process, it appeared that Ms. Noor Bano, an illiterate lady had been hoodwinked and made a scapegoat in the litigation for reasons, which on the face of it, appeared to be, not merely recondite, but also unscrupulous.

6.10. Inasmuch as both the writ petitions had been filed through Mr. Navin Kumar Jha, Advocate, we directed Mr. Navin Kumar Jha to produce, before us, Mr. Akash Bansal, on the following day i.e. 27th February, 2018. As Ms. Noor Bano expressed apprehensions regarding danger to her life from Mr. Akash Bansal and his associates, we also directed SI Sunil Kumar, PS Govindpuri, who was present in the court, to escort Ms. Noor Bano to her residence, and further ordered the SHO of PS Sangam Vihar to provide police protection to her. As Ms Noor Bano was a lady, and appeared to be in great agitation, we appointed Ms. Anuja Kapoor, Advocate, who was present in Court, as *amicus curiae*, to assist her.

Proceedings after 27 February, 2018, in both writ petitions

7. On the next date of hearing, i.e. 27th February, 2018, both these writ petitions, i.e. WP (C) 9816/2017 and WP (C) 1006/2017 were listed. Mr. Akash Bansal was present in Court, but Mr. Navin Kumar Jha, Advocate, remained absent. Mr. Akash Bansal informed us of certain other cases, purportedly filed by him in public interest, which are not of any relevance, so far as this judgement is concerned. The writ petitions were renotified for 8th March, 2018

8. On 8th March, 2018, however, neither Mr. Akash Bansal nor Mr. Navin Kumar Jha, was present before this Court. Accordingly, court notice, without process fee, was directed for their appearance, returnable on 19th March, 2018. We further directed the SDMC not to take any action, on any complaint received by it from J-One Jan

Samuh Samiti, or from Mr. Akash Bansal, pending further orders by this Court.

9. On 17th April, 2018, both Mr. Navin Kumar Jha and Akash Bansal, along with Ms. Noor Bano, were present in Court. Mr. Navin Kumar Jha expressed his profound apologies, seeking to withdraw from the entire litigation. On our bringing, to his notice, the fact, of Mr. Akash Bansal in filing WP(C) 9816/2017, seeking demolition of two properties in Devli Village, and another writ petition, (WP(C) 10006/2017), seeking demolition of properties in Tughlakabad Extention which were neighbouring his own through M/s. J-One Jan Samuh Sewa Samiti, which was apparently a proxy organization set up to smokescreen the involvement of Mr. Akash Bansal, no explanation was forthcoming, either from Mr. Navin Kumar Jha, or from Mr. Akash Bansal, who merely continued to beseech this Court to allow them to withdraw, both writ petitions stating that they had committed a mistake.

10. We confess that we are aghast at these proceedings, which present the ugly face of the public interest litigation institution, when it is sought to be abused by unscrupulous persons such as Mr. Akash Bansal and Mr. Navin Kumar Jha. It is clear, on the face of it, that Mr. Akash Bansal has made a habit – and probably, a business – of litigations such as the present, in which he selects properties, located at a distance from his own residence, and moves purported public interest litigations, seeking their demolition. Indeed, a new industry, of sorts, appears to have sprung up in the recent past. Unfortunately, for

Mr. Akash Bansal, in this case, he appears to have overplayed his hand by filing WP(C) 10006/2017 through a front organization, namely, “J One Jan Samuh Seva Samiti” and dragging, into the entire murky litigative process initiated by him, the guileless, but apparently gullible, Ms. Noor Bano, an illiterate lady who has no interest in the demolition of any property, and would prefer to be left alone.

11. On inquiry, we are informed that Mr. Akash Bansal is pursuing his LL.B, course in the Chaudhary Charan Singh University, Meerut, a worrying factor, given the responsible profession he may opt to follow thereafter.

12. We are also unconvinced of the *bona fides* of Mr. Navin Kumar Jha in this matter. Ms. Noor Banu would submit that Mr. Akash Bansal works in tandem with Mr. Navin Kumar Jha as a part of his office; however, we do not propose to waste any further time of this Court, by embarking on an inquiry in this regard.

13. At the same time, we are sanguine that, in the present matter, Mr. Navin Kumar Jha cannot profess complete innocence and ignorance, as both these writ petitions had been filed by him, signed on the same day. Though signed on the same day, WP (C) 9816/2017 was first filed, on 30th October, 2017, and refiled, after removing objections, on 3rd November, 2017, whereas WP(C) 10006/2017 was first filed on 3rd November, 2017 and refiled, after removing objections, on 9th November, 2017. It is obvious that Mr. Navin Kumar Jha was well aware of the fact that the property being targeted

in WP (C) 10006/2017 was the property neighbouring that of Mr. Akash Bansal, on whose behalf he himself had filed WP(C) 9816/2017, especially as both writ petitions were apparently prepared side by side, and signed on the same day, i.e. 25th October, 2017. Indeed, the filing of WP (C) 9816/2017 on 30th October, 2017 and of WP (C) 10006/2017 on 3rd November, 2017 appears, on the face of it, to be orchestrated, so as to conceal the involvement, in both the writ petitions, of Mr. Akash Bansal and Mr. Navin Kumar Jha.

14. Inasmuch as Mr. Navin Kumar Jha is a practising advocate, and Mr. Akash Bansal is an aspirant to the legal profession, we say no more.

15. It is for the above reason, that as directed in our order dated 17th April, 2018, both these writ petitions were dismissed, with costs quantified at Rs. 50,000/- each, to be deposited by Mr. Akash Bansal and Mr. Navin Kumar Jha with the Delhi High Court Legal Services Committee, within a period of eight weeks, and to place proof of such deposit with the Registrar (Appellate), Delhi High Court, in default whereof these matters would be relisted, before this Court, for appropriate directions.

23. We have chosen not to adopt a stricter stand, only in view of the profound apologies extended to us in Court by Mr. Akash Bansal and Mr. Navin Kumar Jha. They are, however, warned that any such misadventure on their part in future may result in throwing their entire

legal career into jeopardy, apart from other consequences which may ensue in law.

24. So far as the issue of demolition of unauthorized construction is concerned, we direct the SDMC to proceed against *all* the buildings in Tughlakabad Extension, including that of Mr. Akash Bansal, advocate, which are found to have been unauthorizedly constructed, and take appropriate action against such constructions; needless to state, in accordance with law.

25. The writ petitions stand disposed of in the above terms.

**C. HARI SHANKAR
(JUDGE)**

ACTING CHIEF JUSTICE

APRIL 17, 2018
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