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

+ **W.P.(C) 11890/2015**

VEENA SAHNI Petitioner

Through: **Mr. Kshitiz Mahipal, Adv.**

versus

THE DEPUTY COMMISSIONER NORTH DELHI MUNICIPAL CORPORATION AND ORS. Respondents

Through: **Mr. Pratap Singh and Mr. Nameet Tripathi, Advs. for R1.**
Mr. Satyakam, ASC with
Mr. Siddharth Parihar, Adv. for R3
with Inspr. Girish Kumar, Traffic
Inspector, Sukhdev Vihar Circle and
ASI Virender Singh, Pairvi Officer,
Traffic Office.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **16.01.2018**

1. Present petition has been filed by the petitioner with the following prayers:

“It is, therefore, most respectfully prayed that this Hon’ble Court may kindly be pleased to: -

(i) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondent no.1 to remove / demolish the illegally installed Iron Gates at Block-6, West Patel Nagar, New Delhi;

(ii) Award costs of the present writ petition in favour of the petitioner and against the respondent; and

(iii) Issue any other or further appropriate writ (s), order (s) or direction (s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case, in favour of the petitioner and against the respondent."

2. It is the case of the petitioner that she is a widow and a permanent resident of 6/16, West Patel Nagar, New Delhi for the last 30 years. In the year 2011 some residents of Block-6 have installed iron gates on the entrance of the public street / road of the locality in the name of security, but they used the street for their personal use and also for parking of their vehicles, which is causing inconvenience to the petitioner and other residents of the locality. It is her case that she made a complaint to respondent no.1 / NDMC for removal of the gates on May 5, 2011 and also on January 18, 2012, but no action has been taken. She also states, she had approached different public authorities with regard to the removal of gates but her request has not been heeded to. The counsel for the petitioner would rely upon the circular dated May 26, 2007 wherein, it is stipulated that the Deputy Commissioner of the MCD Zone concerned is authorized to give permission for erection of gates subject to Resident Welfare Association adhering to the following point:-

*"1.******

2.RWA will have to obtain no objection certificate (NOC) from Traffic Police Department of Delhi Police before applying to Dy. Commissioner of concerned MCD Zone."

3. I note, the President of the Resident Welfare Association, Block-6, West Patel Nagar, New Delhi has been impleaded as a party / respondent no.4. The said respondent has been duly served, but no one appears for the

said respondent. The other respondents, i.e., respondent nos. 1 to 3 have filed their reply / status report. In terms of the status report filed by respondent nos. 2 and 3, Para 4(A) at page 43 of the paper book, reads as under:

“4(A). RWA will have to obtain no objection certificate (NOC) from local police and Traffic Police before applying for the same to the Dy. Commissioner of MCD Zone. After scrutiny of available record, it is found that no NOC was ever given by Traffic Police regarding installation of the said gates.”

4. Respondent / NDMC has also filed its counter-affidavit wherein in Para 3 (page 54) of the paper book, the following has been stated:

“3. That the official of the respondent had inspected the area in question, i.e., Block-6, West Patel Nagar, New Delhi. It is submitted that 4 iron gates adjoining House No.6/5, 6/6, 6/15 and 6/25 of Block-6, West Patel Nagar, New Delhi have been installed. From a perusal of record it is revealed that the Corporation has not given any permission for installation of any of the said 4 gates. As such the said gates have been installed without prior permission from the answering respondent and as such the same are illegal and liable to be removed. It is submitted that the answering respondent will take further action as per the directions issued by this Hon’ble Court.”

5. From the stand of the respondents, it is clear that the gates have been erected without taking permission from the Traffic Police and also from the respondent / NDMC. Accordingly, the petition needs to be allowed. Petitioner is entitled to prayer as made in the writ petition. Respondent no.1 shall remove the iron gates installed at Block-6, West Patel Nagar, New

Delhi. This direction shall not preclude Resident Welfare Association if it wants to install gates to seek permission of the authorities.

The petition is disposed of.

V. KAMESWAR RAO, J

JANUARY 16, 2018/jg