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

+ W.P.(C) 530/2018

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Decided on: 21st August, 2019

VINOD KUMAR

..... Petitioner

Through: Ms.Manju Datt, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY & ORS Respondents

Through: Mr.Ajay Verma, Adv. for DDA.

Mr.Mukesh Gupta, Standing Counsel with
Mr.Abhishek Sharma, Ms.Shashi Gupta, Mr.Arnab
Gupta, Advs. for R-2/EDMC.

Mr.Arvind Panday, Adv. for R-4&5.

Mr.A.P.Sahay, CGSC for R-6/UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

: **D.N.Patel, Chief Justice(Oral)**

1. This so-called public interest litigation has been preferred with the following prayers:-

- “a. Issue a Writ of Mandamus or any other appropriate Writ order or Direction directing the Respondents No.1 to 3, their agents, servants, jointly and severally forthwith stop all construction activity on the vacant site of land falling in Khasra No 63 of Village Kotla, admeasuring approx. 2000 sq ft. noe bearing No B-1, Acharya Niketan, MajrurVihar, Phase -1, Delhi -110091.(as described in the Plan annexed to the Writ Petition as ANNEXURE -S).

- b. Issue an appropriate Writ Order or Direction in the nature of Mandamus to Respondents No. 1 & 3 jointly and severally to remove all construction, material and demolish any existing construction including closing of the already running restaurant (as described in the Plan annexed to the Writ Petition);
- c. Issue an appropriate Writ Order or Direction in the nature of Mandamus to Respondent No. 1 to take the physical Possession of the said land from L & B department and to use the said land in the interest of general public, (as described in the Plan annexed to the Writ Petition);
- d. Issue an appropriate writ Order or Direction in the nature of Mandamus to respondents to restore the land to its original status by closing and removing all the construction activities. ”

2. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case it appears that as per petitioner, the land in question which is described hereinabove in prayer clause ‘a.’ is owned by the respondents except respondents No.1 to 3. A counter affidavit has already been filed by respondents No.4 and 5, who are the private parties and they are claiming ownership of the land in question ad measuring approximately 2000 sq. ft.

3. Thus, since respondents No.4 and 5 have already claimed ownership over the land in question, a disputed question of fact about the ownership of the land in question is involved in the matter which cannot be adjudicated in a writ petition under Article 226 of the Constitution of India.

4. Hence, no relief can be granted by this Court as prayed for by the petitioner, much less for demolition of the construction of the property

mentioned in the memo of this writ petition.

5. The writ petition is accordingly dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 21, 2019/‘anb’

