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

*Date of decision: 23<sup>rd</sup> October, 2019*

+ W.P.(C) 6302/2019

MOHD. IKRAM

..... Petitioner

Through: Mr. Shakil Akhtar, Adv.

versus

THE GOVT. OF NCT DELHI AND ORS. .... Respondents

Through: Mr. Anupam Srivastava, ASC with  
Mr. Dhaieya Gupta, Adv. for  
respondent nos. 1 to 6  
Mr. Hashmat Nabi and Ms. Farah  
Naaz, Advs. for respondent no. 7

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE C.HARI SHANKAR**

**ORDER**

**23.10.2019**

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**D.N. PATEL, CHIEF JUSTICE (ORAL)**

1. This so-called Public Interest Litigation (PIL) has been preferred with the following prayers:-

*“(a) allow the present Writ Petition (Civil) by way public interest litigation and direct/order(s) to the respondents to immediately stop encroachment, demolition and destruction of medieval age Masjid Quazian @Masjid Bhool Bullayan Mehrauli, a public property under Delhi Waqf Board bearing Khasra No.640 admeasuring 3Bigha 1 Biswa & bearing No.30 Page 382 of Delhi Gazette dt. 16.04.1970 situated in the vicinity of Bhool Bhuliyani, Mehrauli, New Delhi-110030 & its*

*properties, by the aforesaid 'Bhoo Mafia'/Land grabber Manmohan Mallik & Narender Mallik; and further direct the respondents to immediately restore/handover the possession of masjid to the public belonging to minority community for offering name; and further provide police protection to the petitioner as the petitioner is under threat of life by said Bhoo Mafia, by issuing the writ of mandamus or any other appropriate writs in the above captioned writ petition, from this Hon'ble High Court;*

*(b) pass any other and further order/s as this Hon'ble High Court may deem fit and proper in the interest of justice."*

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that this is not a Public Interest Litigation at all, but in fact a Publicity Interest Litigation.

3. Further, it appears from the facts of the case that the owner of the property is Delhi Waqf Board, which has already been impleaded as respondent no. 7. It is pertinent to note that, respondent no. 7 is quite capable of protecting their own properties and they can always file a suit and take appropriate action under the law for the said purpose. Moreover, respondent no. 7 is neither illiterate nor downtrodden person, for whom the petition could be preferred by a third person. In fact the owner of the property in question is a vigilant body and hence, this writ petition for safeguarding the interest of respondent No.7 properties cannot be entertained at the behest of this petitioner.

4. It further appears from the facts of the case that there are allegations about the encroachment upon the property owned by the

respondent no. 7. If this is the case, then respondent no. 7 always at liberty to approach the appropriate forum for initiating appropriate action for removal of the said encroachment, in accordance with law.

5. Further, looking to the status report filed by respondent no. 6 dated 24<sup>th</sup> July, 2019 specifically paragraphs 4 to 7 thereof read as under:-

*“4. On this, a complaint of Conservation Assistant, Archaeology Survey of India, Mehrauli, Delhi was received and subsequently a legal action was taken and a Case FIR No.245/19 u/s 30(1) the Ancient Monument and Archaeology Act 1958 at PS Mehrauli, Delhi was registered. The investigation was taken up.*

*5. During the course of investigation, notice was given to alleged Manmohan Malik who was getting this house demolished/reconstructed to produce the documents, he produced some documents regarding civil suit, the same are being verified and some documents are yet to be provided.*

*6. Further the investigation conducted so far, no role of locus standii of petitioner Mr. Ikram was found into the said matter. The old structure containing dome has been lying abandoned since several years and no religious, social activity/gathering etc has been performed at the said place. Mohd Ikram only wants to be a party in the matter.*

*7. No fresh construction is going on at the above property in question. Investigation is in progress*

*and a final report will be submitted at the earliest.*

*Report is submitted for kind perusal and further directions, if any”*

6. In view of the aforesaid status report filed by the respondent no. 6, it appears that FIR has already been lodged in this case. Moreover, somebody else, namely, Manmohan Malik appears to be claiming to be the owner of the property in question. A civil suit also appears to have been filed qua the said property. We, therefore, see no reason to entertain this writ petition and that too at the behest of this petitioner, especially when respondent no.7, who is the owner of the property in question, can very well protect their properties. As and when respondent no. 7 agitates the illegality or otherwise, of the construction in their own land, the same can be decided by looking to the facts of the case in accordance with law.

7. In view of the above, we see no reason to entertain this writ petition and the same is hereby dismissed with costs of ₹10,000/- to be deposited by the petitioner within two weeks with the Delhi State Legal Services Authority. Copy of this order be sent to the Member Secretary, Delhi State Legal Services Authority, New Delhi for information.

**CHIEF JUSTICE**

**C.HARI SHANKAR, J.**

**OCTOBER 23, 2019**  
*r.bararia*