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

Date of decision: 02.08.2019

+ W.P.(C) 8405/2019 & CM APPL.34748/2019

SAVE EARTH STONE THROUGH ITS PRESIDENT

..... Petitioner

Through: Mr. Indu Shekhar, Adv.

versus

LT. GOVERNOR GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Mohit Agarwal, Adv. for R-1 &
3.

Mr. Dhanesh Relan, Adv. for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (Oral)

1. This Public Interest Litigation has been preferred with the following prayers:-

“a) issue a writ in the nature of mandamus directing thereby the respondent no.1 and 2 to initiate appropriate departmental proceedings against the officers of respondent no.2 for allowing builder flat over the awarded land bearing Khasra no.57 min, measuring 5 bigha approx. of village Saidulazab, New Delhi which is known as Kailash Tower, Saidulazab, New Delhi and they be further directed to remove the said structures to its logical end as removed earlier in the year 2010-11; AND

b) issue a writ in the nature of mandamus directing thereby the respondent No. 1 TO 2 TO utilize the land after removal of

newly built-up builder flats from the encroached awarded DDA land bearing Khasra no.57 min. of Saidulazab, New Delhi and the same be utilized for public utilities for which the same was acquired i.e. for construction of Government dispensaries (Homeopathy, Ayurvedic, Allopath) and Nationalised Bank as there is no such facilities in the area in question.; AND

c) issue a writ in the nature of mandamus directing thereby the respondent No. 3 to investigate the matter and after investigation to register an FIR against the respondent-4 company and their Directors, financiers, beneficiaries etc. and their associates who participated in the said encroachment alongwith the government officers of respondent no.2 who directly or indirectly protected the interest of respondent no.4 by not taking any action of demolition and protection of government land under the relevant provisions of Indian Penal Code, Prevention of Corruption Act etc.

d) pass any other or further Writ / Order(s) or relief which this Hon'ble Court may deem fit and proper in the facts and circumstances as mentioned herein above in favour of the Petitioner and against the Respondents."

2. Counsel appearing for the petitioner submits that he seeks permission of this Court to delete respondents No.5 and 6 from the array of parties as they were legal advisors of respondent No.4 being Advocates and therefore not necessary parties in the instant writ petition.

3. Permission to delete respondents No.5 and 6 is granted and the said respondents are deleted from the array of parties.

4. Counsel appearing for the petitioner submitted that suffice will it be for the disposal of this writ petition if a suitable direction is given to the respondent No.2 – Delhi Development Authority to remove the illegal construction, if any, at land situated as Khasra No. 57 min. admeasuring

approx. 5 bigha at village Saidulazab, New Delhi.

5. Counsel appearing for the respondent No.2 submitted that respondent No.2 - Delhi Development Authority is claiming to be the owner of the property in question as stated hereinabove and hence they will take all actions to remove the unauthorized construction in accordance with law, rules, regulations and Government policy applicable to the facts of the present case, after giving an adequate opportunity of being heard to the owner/occupant of the super structure.

6. In view of these limited submissions, respondent No.2/DDA shall take all actions to remove illegal construction, if any, in accordance with law, rules, regulations and Government policy applicable to the facts of the present case, after giving adequate opportunity of being heard to the owner/occupant of the super structure as early as possible and practicable.

7. In view of the aforesaid observations, this writ petition is hereby disposed of. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 02, 2019

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