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

Date of decision: 2nd December, 2019

+ W.P.(C) 12588/2019 & CM APPL. 51418/2019

MONU BHADANA

..... Petitioner

Through Mr. Samrendra Kumar, Ms. Shireen Fatima, Mr. Dhurendra Singh and Mr. Vivek Kr. Srivastava, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mr. Ajay Digpaul, CGSC with Mr. Srivats Kaushal, Adv. for R-1/UOI
Mr. Ajay Arora, Adv. with Mr. Kapil Dutta, Adv. for SDMC
Mr. Dhaneh Relan, SC for DDA with Ms. Gauri Chaturvedi, Adv. for R-4/STF

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

02.12.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL. 51418/2019 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 12588/2019

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

“(i) Issue a writ of mandamus commanding the respondents, direct the same to stop illegal / unauthorized construction and to demolish the constructions already made and / or whenever, the same is still in progress on the sites / properties bearing House No. 1019A - Ward No.7, near Radhe Shyam Mandir, Mehrauli, New Delhi 110030, House No. 30, Ward No. 1, Near Mother Dairy, Adjacent of Kerala Store, Mehrauli, New Delhi - 110030,. House No. 82, Ward No.4, Mehrauli, New Delhi - 110030, House No. 1056, Ward No.7, Near Aggarwal Dharamshala, Mehrauli, New Delhi - 110030, House No. 1092, Ward No.1, Opposite St John Public School, Near Bus Stand, Mehrauli, New Delhi - 110030, House No. 29, Ward No.1, adjacent of Mother Dairy ground, Mehrauli, New Delhi - 110030, House No. 967/ C, Ward NO.7, Near Kasaiwada, Mehrauli, New Delhi - 110030, House No. 705A/20, Ward No.3, Mehrauli, New Delhi - 110030, House No. 450, Ward No.3, Mehrauli, New Delhi - 110030, House No. 266G, Ward No.2, Mehrauli, New Delhi - 110030, House No. 30A, Ward No.1, Opposite Mother Dairy, Mehrauli, New Delhi - 110030, House No. 1006, Ward No.7, Near Radhe Shyam Mandir, Mehrauli, New Delhi - 110030, House No. 29/5, Ward No.1, Near LIC, Mehrauli, New Delhi - 110030, House No, 1093/1/27, Ward No.1, Church Compound, Mehrauli, New Delhi - 110030, House No. 1093/48A, Ward No.1, Church Compound, Mehrauli, New Delhi - 110030, House No. 178, Ward No.3, Mehrauli, New Delhi- 110030, House No. 178, Ward No.2, Mehrauli, New Delhi - 110030, House No. 894, Ward No.8, Opposite S-.B.I. Bank, Sarai, Mehrauli, New Delhi - 110030,

House No. 886E, Ward No.8, Mehrauli, New Delhi - 110030, House No. 886, Ward No.8, Opposite S.B.I. Bank, near Maruti competent, Mehrauli, New Delhi - 110030 House No. 176, Ward No.2, Near Prince Public School, Mehrauli, New Delhi - 110030, etc.

(ii) Issue such writs or directions or orders to the respondents for ensuring that no illegal and unauthorized construction whatsoever may take place anywhere in Mehrauli, including the properties/sites mentioned above, in future.

(iii) Pass such order/orders as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case it appears that this petitioner is seeking order of demolition against the properties which have been mentioned in para 6 of the writ petition.

3. For ready reference, para 6 of this writ petition may be reproduced thus:

“6. That the petitioner has filed several complaints as the construction going on the site / properties bearing House No. 1019A - Ward No.7, near Radhe Shyam Mandir, Mehrauli, New Delhi 110030, House No. 30, Ward No.1, Near Mother Dairy, Adjacent of Kerala Store, Mehrauli, New Delhi - 110030, House No. 82, Ward No.4, Mehrauli, New Delhi - 110030, House No. 1056, Ward No.7, Near Aggarwal Dharamshala, Mehrauli, New Delhi - 110030, House No. 1092, Ward No.1, Opposite St John Public

School, Near Bus Stand, Mehrauli, New Delhi - 110030, House No. 29, Ward No.1, adjacent of Mother Dairy ground, Mehrauli, New Delhi - 110030, House No. 967/ C, Ward No.7, Near Kasaiwada, Mehrauli, New Delhi - 110030, House No. 705A/20, Ward No.3, Mehrauli, New Delhi - 110030, House No.450, Ward No.3, Mehrauli, New Delhi - 110030, House No. 266G, Ward No.2, Mehrauli, New Delhi - 110030, House No. 30A, Ward No.1, Opposite Mother Dairy, Mehrauli, New Delhi - 110030, House No. 1006, Ward No.7, Near Radhe Shyam Mandir, Mehrauli, New Delhi - 110030, House No. 29/5, Ward No.1, Near LIC, Mehrauli, New Delhi - 110030, House No. 1093/1/27, Ward No.1, Church Compound, Mehrauli, New Delhi - 110030, House No. 1093/48A, Ward No.1, Church Compound, Mehrauli, New Delhi - 110030, House No. 178, Ward No.3, Mehrauli, New Delhi - 110030, House No. 178, Ward No.2, Mehrauli, New Delhi - 110030, House No. 894, Ward No.8, Opposite S.B.I. Bank, Sarai, Mehrauli, New Delhi - 110030, House No. 886E, Ward No.8, Mehrauli, New Delhi - 110030, House No. 886, Ward No.8, Opposite S.B.I. Bank, near Maruti competent. Mehrauli, New Delhi - 110030, House No. 176, Ward No.2, Near Prince Public School, Mehrauli, New Delhi - 110030, etc. are illegal and without sanctioned plan and thus, in utter violation of the provisions of The Delhi Municipal Corporation Act, 1957. Photographs of the illegal Construction are attached herewith as Annexure P-1.

The petitioner made several complaints against the said properties / site to the respondent no. 4 but no action

has ever been taken by them against such illegal construction. Copies of the Complaints are attached herewith as Annexure p-2.

That in reply to the complaint against the illegal construction on the properties / sites mentioned above, respondent no.4 filed wrong / false and fabricated Action Taken Report. It is further pertinent to mention that in some complaints, respondent no. 4 has stated in its Action Task Report that demolition order has taken place till today. Copy of the reply is attached herewith as Annexure P-3.

The petitioner had filed a writ petition before the Hon'ble Supreme Court of India, where the Hon'ble Court has dismissed the petition filed by the petitioner with liberty to file before the High Court. The Copy of the order dated- 21.10.2019 passed by the Hon'ble Supreme Court is annexed herewith as Annexure-P4."

4. Taking note of the above facts mentioned in the writ petition, petitioner is to keep in mind that illegality or otherwise of the construction cannot be decided on the basis of the annexures and photographs annexed with the petition. The legality or otherwise of the constructions in question can be decided by leading cogent and convincing evidence before the trial court. Moreover, the owners/occupiers of the alleged properties, which are under construction or already constructed, have not been joined as necessary party/ respondents in this writ petition and without joining them as party respondent, no decision can be taken about the illegal or otherwise of the constructions in question.

5. The bonafides of the petitioner appear questionable. In fact, this is not a public interest litigation. This is blackmailing type of litigation.

6. We, therefore, dismiss this writ petition with costs of ₹ 10,000/- to be deposited with the Member Secretary, Delhi State Legal Services Authority, Central Office, Patiala House Courts Complex, New Delhi. The said amount shall be utilised for the programme “Access to Justice”. The aforesaid amount shall be deposited by this petitioner within a period of six weeks from today.

7. Copy of this order be sent to the Member Secretary, Delhi State Legal Services Authority, Central Office, Patiala House Courts Complex, New Delhi-110001 for information.

CHIEF JUSTICE

C.HARI SHANKAR, J.

DECEMBER 02, 2019

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