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

Date of Decision: 6th November, 2019

+ W.P.(C) 8669/2018

COLONEL DEVINDER SHERAWAT

..... Petitioner

Through: None

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Anupam Srivastava, ASC

(GNCTD) with Ms. Divya Joshi, Adv. along with
Mr. Savraj Singh, AE for R-1, 5, 6 & 7

Mr. Dhanesh Relan, SC with Mr. Paritosh Dhawan
& Ms. Komal Sorout, Adv. for DDA/R-3

Ms. Garima Prashad, Standing Counsel with

Mr. Shadab Khan, Adv. for R-4/SDMC

Mr. Dev P. Bhardwaj, CGSC (UOI) with

Ms. Anubha Bhardwaj & Mr. Jatin Teotia, Advs.
for UOI

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, Chief Justice (Oral)

1. When the matter is called out, nobody appears on behalf of the petitioner.
2. This writ petition has been preferred as a Public Interest Litigation with the following prayers:

*“a. For a writ of Mandamus or any other appropriate writ,
order or direction to the Respondents to identify and*

demolish the illegal structures constructed on the land on which the ancient paal or boundary wall cum band was situated within a stipulated time period.

b. For a writ of Mandamus or any other appropriate writ, order or direction to the respondents to restore the ancient paal or boundary wall cum band located towards left side of the road from Mahipalpur to Mehrauli within a stipulated time period.

c. For a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus appointing Senior police officer as investigating officer to investigate into the allegations made by Respondent No.3 in FIR No. 229/2017 at Police Station Vasant Kunj and to register an FIR against the other accused persons as set out in Writ Petition and proceed with the investigation and prosecution expeditiously and in accordance with law.

d. For a writ of Mandamus or any other appropriate writ, order or direction to set up an independent Committee to examine and identify which officials of the Respondents are responsible for destruction of the ancient pall or boundary wall cum band and construction of unauthorized structures on the same and prepare a report and after the receipt of such report, to order the prosecution of the officers concerned.”

3. We have heard the counsel appearing for respondent No.3 – Delhi Development Authority as well as counsel for respondent No.4 – South Delhi Municipal Corporation.

4. Counsel appearing for respondent No.3 submitted that FIR has already been lodged by Delhi Development Authority for the unauthorized construction at the premises in question, which is referred to in this writ petition. Counsel appearing for the respondent No.4 submitted that the unauthorised construction has to be removed by the respondent No.3 as the land on which unauthorised construction is stated to have taken place, in fact, belongs to respondent No.3 – Delhi Development Authority.

5. Having heard the counsel for the parties and looking at the facts and circumstances of the case, it appears that this petitioner is seeking demolition of illegal construction at the premises in question as stated in this writ petition. It ought to be kept in mind that before the demolition of any construction, it has to be ascertained as to whether such construction is illegal in nature and the same has to be decided after giving an opportunity of being heard to the owner/occupier of such premises/structure.

6. We direct the concerned respondent authority to decide whether the construction in question is legal or not after giving an adequate opportunity of being heard to the owner/occupier of the premises in question and thereafter start the demolition in accordance with law, rules, regulations and Government policy applicable to the facts of the present case. The demolition can be started by the respondents as early as possible and practicable.

7. With the aforesaid observation, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

NOVEMBER 06, 2019

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