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

Date of Decision: 09.08.2019

+ W.P.(C) 8239/2018

DR J V SINGH

..... Petitioner

Through: Mr. A.C. David, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Through: Ms. Richa Dhawan, Addl. Standing
Counsel, SDMC

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

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

“A) Issue the writs/order/directions in the nature of mandamus to the respondents thereby directing them to remove the unauthorized encroachment at road no.28, opposite MCD School No.2 near A.B. Block, Gurudwara, Raghbir Nagar, New Delhi-110027 specifically mentioned in the Annexures of this writ petition and also, to seal those encroachments.

B) To take necessary action against the responsible officials of respondent of not discharging their statutory duties under Delhi Municipal Corporation Act.

C) To take undertaking from respondent not to repeat.

D) Pass any other appropriate relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. We have heard the counsel for the petitioner at length, who has taken this Court through various annexures of the petition, as well as to the further affidavits filed by this petitioner in response to the reply filed by the respondent. The counsel for the petitioner has taken this Court through annexures RP-1, RP-2, RP-3 and RP-4 and submitted that the action being taken by the respondent is only a cosmetic action for removal of the encroachment and even thereafter, encroachment continues to exist in the very same area. The photographs in support of said submission are annexed with the aforesaid annexures.

3. We have heard the counsel for the respondent. The respondent has filed a counter affidavit stating about the action being taken for removing the encroachment, which is, at times, temporary and at times permanent. South Delhi Municipal Corporation (SDMC) has agreed to remove the encroachment in the area in question, if any, in accordance with law.

4. In view of these submissions and looking into the averments and the allegations levelled in this writ petition, while having regard to the counter affidavit in this writ petition as well as the reply to the counter affidavit filed by the petitioner, we hereby direct the respondent to remove the encroachment at Road No.28, opposite MCD School No. 2 near A.B. Block, Gurudwara, Raghbir Nagar, New Delhi-110027, in accordance with the 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/occupier of the superstructure, as early as possible and practicable.

5. With the aforesaid observation, this writ petition stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 09, 2019
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