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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 8659/2018 & CM APPL. No. 33248/2018 (for interim relief)
NOOR AHMAD KHAN Petitioner
Through: Ms. Pallavi Srivastava, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through: Mr. Abhishek Kumar Singh,
Advocate for R1.
Ms. Deeksh L. Kakar, Advocate for
DDA/R3.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
% **21.02.2019**

For the record, counsel for the parties clarify that the principal relief in this matter is not against the respondent No. 3/DDA but against respondent No. 2/North DMC. Accordingly, this is the correct Roster Bench to deal with the matter.

2. No one is present on behalf of respondent No. 2/North DMC.
3. On being queried, learned counsel for the petitioner confirms that demarcation of the land comprised in Khasra No. 2249 of Village Basai Darapur in which the property that is the subject matter of the present petition is situate, was carried-out as per directions of the Supreme Court Monitoring Committee. This is evidenced *inter-alia* by communication dated 10.07.2018 sent by the Executive Magistrate/Tehsildar to the petitioner; and although the particular Khasra No. does not find mention in the said communication, the Khasra No. appears in the map/demarcation report dated 04.07.2018

submitted to the Monitoring Committee.

4. Counsel further fairly points-out that vacation notice dated 13.07.2018 which is the subject matter of challenge in this petition, also refers to information furnished to the Monitoring Committee, which has led to the issuance of vacation notice dated 13.07.2018 to the petitioner.

5. In view of above, it is seen that action against the petitioner has been initiated by or at the instance of the Supreme Court Monitoring Committee.

6. In various orders made by the Supreme Court in W.P. (C) No. 4677/1985 titled **MC Mehta vs. Union of India & Anr.**, the Supreme Court has mandated that no court, including the High Court, shall entertain any matters in which the action impugned has been initiated at the instance of Monitoring Committee. It is *inter-alia* so mandated in order dated 15.12.2017, the relevant portion of which is extracted below:

“37.We make it clear that henceforth it will not be necessary for any person whose residential premises have been sealed for misuse for any commercial (other than industrial) purposes at the instance of the Monitoring Committee to file an appeal before the appropriate statutory Appellate Tribunal. Instead, that person can directly approach the Monitoring Committee for relief after depositing an amount of Rs.1,00,000/- with the Monitoring Committee which will keep an account of the amounts received by it. Any person who has already filed an appeal before the appropriate statutory Appellate Tribunal but would prefer approaching the Monitoring Committee may withdraw the appeal and approach the Monitoring Committee

for relief on the above terms and conditions and on deposit of Rs. 1,00,000/- as costs with the Monitoring Committee, provided that the premises were sealed at the instance of the Monitoring Committee. Any challenge to the decision of the Monitoring Committee will lie to this Court only. We are constrained and compelled to make this order given the history of the case and the more than serious observations of this Court of an apparent nexus between some entities and the observations regarding corruption and nepotism.”

(Emphasis supplied)

In its report No. 128 dated 05.09.2018 rendered by the Monitoring Committee, it was stated as follows:

“CHANNEL OF COMMUNICATIONS FOR REDRESSAL BY THE AGGRIEVED/DEFAULTING PUBLIC ON SEALING MATTERS:

The Monitoring Committee would like to submit that despite clear orders from the Hon’ble Court with respect to the chain of communication for appeal against the sealing actions to be only addressed to this Hon’ble Court, it has been seen that in a number of cases, the parties concerned have approached other Courts i.e. High Court, District Court and surprisingly in one case, Consumer Court with the sole purpose of delaying the process of sealing ordered under the orders of the Hon’ble Court. The Monitoring Committee has come to the conclusion that all these dubious deviations in redressal appeals are primarily to gain time and delay the process. Some examples of this unfair practice are highlighted in the succeeding paragraphs.”

Whereupon the Supreme Court made order dated 07.09.2018 in which it said:

“Channel of communications for redressal by the Aggrieved/Defaulting Public on sealing matters

It is stated that some of the defaulting individuals/organizations are approaching the Courts – whether it is the High Court or the District Court and even in one case the State Consumer Disputes Redressal Commission.

It is submitted by the Monitoring Committee that these Courts and the Commission do not have any jurisdiction over these issues in view of the order passed by this Court.

The learned Amicus will bring it to the notice of the Courts and the Commission that prima facie jurisdiction does not lie with them leaving it for the Courts to take a decision in the matter.”

(Emphasis supplied)

In a recent order dated 27.11.2018, the Supreme Court has further observed as under:

“Petitions being entertained by other Courts/Tribunals/Authorities

The Monitoring Committee has brought to our notice that other Courts/Tribunals/Authorities including the State Consumer Commission and District and Sessions Judge are entertaining the petitions despite order passed by this Court.

We have requested Mr. A.D.N. Rao to look into these cases. We reiterate that no Court or Tribunal or any other Authority shall look into these matters as well as the petitions which are pending before us.”

(Emphasis Supplied)

7. In view of the above, it is clear that *any* action taken at the instance of Monitoring Committee – be it action relating to unauthorised construction, encroachment or misuse of premises – would be covered by the mandate of Supreme Court in the foregoing orders; and accordingly this court is mandated not to intercede in any such action.

8. Accordingly, as per the mandate of the Supreme Court, this court ought not to entertain the present petition.

9. The writ petition is accordingly dismissed. Pending applications, if any, also stand disposed of.

10. It will of course be open to the petitioners to approach the Monitoring Committee and/or the Supreme Court to seek remedy in accordance with the orders made by the Supreme Court.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 21, 2019

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