$~35.

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

% *Decided on: 9th December, 2020*

\+ W.P.(C) 10034/2020

RESIDENTS WELFARE ASSOCIATION ..... Petitioner

Through: Mr.Suresh Rana, Adv. with Mr.Satyendra Mishra, Adv.

Versus

UNION OF INDIA &ORS. ..... Respondents

Through: Mr.Chetan Sharma, ASG with Mr.Vikram Jetly, CGSC with Mr.Akshay Gadeok, Adv. for UOI.
Mr.Pramod Kumar, Adv. for GNCTD.
Mr.Karunesh Tandon, Adv. with Mr.Chandra Shekhar Goswami, Mr.Mayur Singhal, Mr.Ajay Kumar Kori, Ms.Simran Mulchandani, Advs. for R-8/DJB.

**CORAM:**
**HON'BLE THE CHIEF JUSTICE**
**HON'BLE MR. JUSTICE PRATEEK JALAN**

**JUDGMENT**

**: D.N.PATEL, Chief Justice** *(Oral)*

Proceedings in the matter have been conducted through video conferencing.

**C.M.No.31955/2020** *(exemptions)*

Allowed, subject to all just exceptions.

The application is disposed of.

**W.P.(C) No.10034/2020**

1. This writ petition, styled as a public interest litigation, has been preferred with the following prayers:-



Signature Not Verified
Digitally Signed By:PANKAJ KUMAR
Location:
Signing Date:14.12.2020 20:14:56

*"It is, therefore, most humbly prayed that this Hon'ble Court may kindly be pleased to issue a writ/direction:*

a) *against respondent Nos. 1 to 6 and 10 to 13, directing them to demolish and remove the unauthorized constructions and encroachments upon below mentioned public land of village Nangli Poona i.e., (1)* ***Khasra No.48*** *(Johad/Waterbody of area 4 bighas 3 biswas), (2) Rasta/Passage/Road to cremation ground bearing* ***Khasra No.82,*** *(3) Old Lal Dora Phirni / Passage/Road bearing* ***Khasra No.47****, (4) Extended Lal Dora Phirni / Passage/Road bearing* ***Khasra No.55*** *(encroached by the holder of property bearing khasra no. 53/75), (5) Rasta/Road in* ***Khasra No.44/1*** *from village Nangli Poona to village MukhmelPur (encroached by the holder of property bearing Khasra No.18/12), (6) Encroachment on land of M.C.D. primary school of village Nangli Poona, falling under* ***Khasra No.43*** *of village Nangli Poona, Delhi, (7)* ***Road/Passage/Rasta approaching towards Mata Mandir*** *situated at village Nangli Poona, Delhi, (8) Main Entrance Road/Passage/Rasta bearing/falling under* ***Khasra No.81****, village Nangli Poona, Delhi, (9) Encroachment on Gram Sabha Land bearing* ***Khasra No. 30/1*** *of village Nangli Poona, Delhi, (encroached by the holder of property Khasra No. 29/5);*

b) *against respondent Nos. 8-Delhi Jal Board, directing them to immediately stop the construction work of sewerage plant being constructed without any valid legal sanction on the water body/johad of village Nangli Poona, falling under/bearing* ***Khasra No.48*** *of area 4 bighas 3 biswas.*

c) *against respondent Nos. 7 and 8, directing them to preserve, develop and rejuvenate water body/johad of village Nangli Poona, falling under/bearing Khasra No.48 of area 4 bighas 3 biswas.*

d) *any other or further relief, which this Hon'ble Court deem fit and proper under the facts and circumstances of*



Signature Not Verified
Digitally Signed By:PANKAJ KUMAR
Location:
Signing Date:14.12.2020 20:14:56

*the case may also be passed in favour of the petitioner and against the respondents, in the interest of justice.*"

2. Having heard the learned counsel for the petitioner and looking to the facts and circumstances of the case, this does not appear to be a public interest litigation at all. It further appears from the facts of the case that the petitioner is looking for demolition of several constructions/structures which are situated at:-

(i) ***Khasra No.48*** *(Johad/Waterbody of area 4 bighas 3 biswas),*

(ii) *Rasta/Passage/Road to cremation ground bearing* ***Khasra No.82,***

(iii) *Old Lal Dora Phirni / Passage/Road bearing* ***Khasra No.47****,*

(iv) *Extended Lal Dora Phirni / Passage/Road bearing* ***Khasra No.55*** *(encroached by the holder of property bearing khasra no. 53/75),*

(v) *Rasta/Road in* ***Khasra No.44/1*** *from village Nangli Poona to village MukhmelPur (encroached by the holder of property bearing Khasra No.18/12),*

(vi) *Encroachment on land of M.C.D. primary school of village Nangli Poona, falling under* ***Khasra No.43*** *of village Nangli Poona, Delhi,*

(vii) ***Road/Passage/Rasta approaching towards Mata Mandir*** *situated at village Nangli Poona, Delhi,*

(viii) *Main Entrance Road/Passage/Rasta bearing/falling under* ***Khasra No.81****, village Nangli Poona, Delhi,*

(ix) *Encroachment on Gram Sabha Land bearing* ***Khasra No.30/1*** *of village Nangli Poona, Delhi, (encroached by the holder of property Khasra No. 29/5);*

3. Although the petitioner avers that these constructions have been made on public land, it appears from a perusal of the writ petition that none of the



Signature Not Verified
Digitally Signed By:PANKAJ KUMAR
Location:
Signing Date:14.12.2020 20:14:56

occupiers of the aforesaid properties or other interested persons have been joined as parties to this writ petition. In the absence of these parties, no effective order for demolition/ removal can be passed by this Court. Before passing any order for demolition/ removal of the unauthorized construction/ encroachment, proper notice has to be given by the concerned authorities/Municipal Corporation and an opportunity of hearing has to be given to the concerned party. Instead of such a procedure, an omnibus prayer is made as stated above, based on information allegedly received from unidentified aggrieved persons.

4. It appears from the facts of the case that without doing any homework and without joining necessary parties, this writ petition has been preferred. If such type of petitions are entertained by this Court, it will lead to lawlessness.

5. In view of the aforesaid, we do not see any reason to entertain this writ petition. The same is accordingly dismissed with costs of Rs.25,000/- to be paid by the petitioner to the Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized for the programme 'Access to Justice'.

6. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

**CHIEF JUSTICE**

**PRATEEK JALAN, J**

**DECEMBER 09, 2020**/*'anb'*



Signature Not Verified
Digitally Signed By:PANKAJ KUMAR
Location:
Signing Date:14.12.2020 20:14:56