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

Date of Decision: 03.02.2020

+ W.P.(C) 464/2017

DEEPAK KUMAR Petitioner

Through: Mr. M. Hussain, Adv.

versus

SOUTH DELHI MUNICIPAL CORP. & ORS Respondents

Through: Mr. Nikhil Goel, Standing Counsel
with Mr. Dushyant Sarna & Mr. P. Jaimon, Advs.
for SDMC

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This so-called Public Interest Litigation has been preferred with the following prayers:

- “i) Directing the respondents to enquire into the matter and ensure that their officials must act as per law, bye-laws of Municipal Corporation and Rules made there-under;*
ii) The conduct of the officials of the respondents be enquired into/probed and if found guilty, they be punished according to law for colluding and conniving with unscrupulous builders and owner;
iii) Pass any other order(s)/direction(s) as deemed fit on the facts and circumstances of the case.”

2. We have heard the learned counsel for both sides. Looking to the facts and circumstances of the case, it appears that this is not a Public Interest Litigation at all but in fact a blackmailing type of litigation.

3. It appears that petitioner is in search of demolition of the properties which are referred to in para 4 of this writ petition. For ready reference para 4 reads as under:

“4. That the petitioner in response to his RTI application was informed that the property No.23/77, West Punjabi Bagh had been booked for unauthorized construction in shape of dividing one property and after being booked since 2005 and property No.23A/77, West Punjabi Bagh had been found unauthorized, but no action had been taken by the respondents till date. Similarly, property No.44/42, West Punjabi Bagh is booked vide File No. EE[B-1] WZ/UC/14/314 dated 15.07.2015 for unauthorized construction in shape of alteration by removing walls in basement and ground floor in old and existing building, but no action has been taken because the lower staff of respondents are hands in gloves with the owners. Similarly, the property No.33, West Punjabi Bagh which had been booked for unauthorized construction vide file No.EE[B-1] WZ/UC/14/345 dated 15.07.2014 and the property No.33/72, West Punjabi Bagh which had been booked for unauthorized construction vide file No.EE [B-1] WZ/UC/14/313 dated 15.07.2015.”

4. Thus, the petitioner is in search of an order or direction upon respondents for demolition of the aforesaid properties without even joining the owners/occupiers as party/respondents. We are of the considered view that without joining them as party/respondents, no such prayer can be granted by this Court. Moreover, legality or otherwise of the constructions cannot be decided in a writ petition on the basis of annexures. To establish

legality or otherwise of the constructions, cogent and convincing evidences are required to be led before the concerned Trial Court and that too after joining the concerned owners/occupiers of the premises/superstructures as a party/respondents/defendants in the proceedings.

5. In view of the above facts, in our view, this is a blackmailing type of writ petition and an abuse of the process of law which ought to be stopped. We, therefore, dismiss this writ petition with costs of Rs.10,000/- (Rupees Ten Thousand Only) to be deposited with the Delhi State Legal Services Authority within a period of six weeks from today. This amount shall be utilized towards the programme “Access to Justice”.

6. A copy of this order shall be sent to the Member Secretary, Delhi State Legal Services Authority, Central Office, Patiala House Courts Complex, New Delhi – 110001.

CHIEF JUSTICE

C.HARI SHANKAR, J

FEBRUARY 03, 2020
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