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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3012/2020**

SKY DREAM PROJECTS PVT. LTD. Petitioner
Through Mr. Rachit Batra, Advocate.

versus

GOVT. OF NCT OF DELHI Respondent
Through Mr. Shadan Farasat, Advocate.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **28.04.2020**

[Court hearing convened *via* video-conferencing on account of COVID-19]

CM No.10459-60/2020

1. Allowed, subject to just exceptions.

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2. Issue notice.

2.1 Mr. Shadan Farasat accepts notice for the respondent/GNCTD.

3. The substantive prayers made in the writ petition are as follows:

“a) Pass appropriate writ in the nature of mandamus or any other appropriate writ, order directing Respondent No.1 to allow/permit the Petitioner to arrange and transport Pressure Machine, Dust, Cement, Jali and to carry out pressure gunning and Shoring of Excavated area at site/premises bearing No.B-55, Defence Colony, New Delhi for a period of seven days.

b) Pass appropriate writ in the nature of mandamus or any other appropriate writ, order directing respondent No.1/concerned authorities to allow limited transport of manpower and material storage of requisite construction material for a period of seven days.

c) Pass appropriate writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondent No.1 to set up a committee/body consisting of Civil Engineer(s) and/or set up a mechanism to consider such construction hazards related emerging situations across Delhi.”

4. A perusal of the averments made in the writ petition along with the prayers, in sum, brings to fore the fact that it is the petitioner’s stand that it has been appointed as a contractor for carrying out construction work at the site located at B-55, Defence Colony, New Delhi [hereafter referred to as the “subject site”].

5. It is the assertion of the petitioner that after excavation being carried out at the subject site, on account of lockdown being ordered, it has not been able to continue with the construction work.

5.1 It is further asserted by the petitioner that due to inclement weather there has been water-logging in the excavated subject site which has created an apprehension of structural safety *vis-a-vis* adjoining buildings. These buildings are situate at plot Nos. B-54 and B-56, Defence Colony, New Delhi.

6. The petitioner says that it needs to take measures which have been broadly described in prayer clauses extracted hereinabove to ensure that the structural safety of the adjoining buildings is not compromised.

7. Mr. Farasat says that there are powers available with the concerned District Magistrate under Section 34 of the National Disaster Management Act, 2005 (in short “the Act”) for taking requisite measures.

7.1 It is Mr. Farasat’s contention that, possibly, the petitioner’s request could be dealt with by the District Magistrate (South East).

8. Having heard the counsel for the parties and given the fact that there is an apprehension that the structural safety of the adjoining buildings is being compromised on account of water-logging in the subject site, I am of the view that remitting the petitioner's case, at this juncture, to the concerned District Magistrate may cause further delay. What is imperative is to rule out any harm being caused to the residents of buildings located on plots adjoining to the subject site.

9. In these circumstances, the captioned writ petition is disposed of with the following directions:

(i) The District Magistrate (South East) will have the subject site examined and, if the assertions made before this Court are found to be correct, immediate steps will be taken to provide the petitioner with necessary permissions to deploy men and material for the limited purpose of strengthening the subject site and, thus, protecting the adjoining structures.

(ii) The broad contours of the steps that the petitioner wishes to take are set forth in the prayer clauses extracted hereinabove. Details, if any, may be elucidated by the District Magistrate (South East) from the authorized person of the petitioner.

10. Before I conclude, I may also record that Mr. Batra, who appears for the petitioner, has indicated that the petitioner would be required to deploy 4-5 persons including labourers and that the work involved will span over a period of one week.

11. These are the aspects that the District Magistrate (South East) will take into account and, accordingly, issue necessary passes/permissions for ferrying persons, equipments and material to the subject site.

RAJIV SHAKDHER, J

APRIL 28, 2020/pmc

Click here to check corrigendum, if any

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