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

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Judgment delivered on: 24.09.2020

+ CM(M) 376/2020 & CM APPL.15101/2020

R.K.YADAV

..... Petitioner

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Satish Tamta, Sr. Advocate with Ms.Nisha Narayanan and Mr.Shariq Iqbal, Advocates.

For the Respondent: Ms. Mrinalini Sen Gupta, Standing Counsel with Ms. Nihaarika Jauhari, Advocate for DDA.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 08.07.2020, whereby, in the suit for permanent injunction, filed by the petitioner, only notice was issued without any *exparte* orders being passed on the interim injunction application.
3. It is pointed by learned senior counsel for the petitioner that petitioner is the owner of the subject property and his father has

purchased the property on 28.12.1960 and thereafter they have been occupying the said property uninterruptedly.

4. Learned senior counsel for the petitioner submits that the land falls in village abadi and no sanction plan is required. He submits that construction was raised from time to time and the last construction was raised in the property in the year 2000 and the property is existing in the same position for the last 20 years.

5. Learned senior counsel for the petitioner further, submits that though order, impugned in the suit, has been passed under Section 30 of the Delhi Development Act, 1957, no show cause notice was issued to the petitioner prior to passing of the order even though it is mandated by proviso to Section 30 sub-Section (1) of the Delhi Development Act, 1957.

6. Learned senior counsel for the petitioner further submits that by notice dated 29.06.2020 DDA has directed petitioner to remove the alleged unauthorised illegal construction within a period of 10 days failing which they have threatened coercive action of forceful removal of the construction.

7. By the impugned order in the suit filed by the petitioner, the Trial Court while issuing notice declined to grant *exparte* interim protection to the petitioner consequent to which the subject petition was filed.

8. By order dated 15.07.2020 this Court directed that no coercive action shall be taken against the subject property of the petitioner consequent to notice dated 29.06.2020 till the next date of hearing.

9. Learned counsel appearing for the respondent submits that Written Statement has already been filed, however the reply to interim application has not been filed and the matter now stands adjourned to 18.11.2020.

10. Learned counsel for the petitioner submits that replication to the written statement shall be filed with the Trial Court within 30 days from today.

11. Learned counsel appearing for the respondent submits that the reply to the pending applications before the Trial Court shall also be filed within a period of four weeks from today.

12. This petition is accordingly disposed of with a direction to the Trial Court to expeditiously consider the application under Order 39 Rule 1 & 2 filed by the petitioner and to pass an appropriate order in accordance with law without being influenced by any order passed by this Court.

13. It is directed that till the time the Trial Court takes up the application of the petitioner under Order 39 Rule 1 & 2 for consideration, the interim protection granted to the petitioner by order dated 15.07.2020 shall continue to operate. It would be open to the

Trial Court to extend or decline to extend the interim order on the next date of hearing based on the pleadings of the parties.

14. The petition is accordingly disposed of.

15. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

SEPTEMBER 24, 2020/rk

