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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4425/2020**

PRADEEP SINGH

.....Petitioner

Through: Mr M.S. Bammi, Mr Mrinal Singh
and Mr Ashish Ratra, Advocates.

versus

THE COMMISSIONER, SDMC & ORS.

..... Respondents

Through: Mr Tushar Sannu, Additional
Standing Counsel for SDMC with Ms
Ankita Bhadouriya, Advocate.
Mr Anjum Javed, Additional Standing
Counsel for GNCTD/SHO/R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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22.07.2020

1. The hearing was conducted through video conferencing.

CM APPLs 15935-15936/2020 (Exemption)

2. Allowed, subject to all just exceptions. The applications stand disposed off.

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3. Issue notice.
4. Mr Tushar Sannu, the learned Standing Counsel accepts notice on behalf of SDMC and Mr Anjum Javed, Additional Standing Counsel accepts notice for GNCTD/SHO/R-3.
5. At joint request of the parties, the petition is taken up for disposal.
6. The following relief (s) have been sought in the present petition:
 - a) *Issue a writ of mandamus or any other appropriate writ directing*

the Respondents No. 1 to 3 to restrain/stop the respondent no.4 from continuing with the Illegal/unauthorized construction at property bearing no. WZ-7A/ 1, Krishna Nagar, Major Bhupinder Singh Nagar, Opposite MCD Primary School, New Delhi-110018 which is totally in derogation with the municipal laws; and/ or

b) Issue a writ of mandamus or any other appropriate writ directing the Respondents No. 1 to 3 to demolish the newly/recently constructed building at the property bearing no. WZ-7N1, Krishna Nagar, Major Bhupinder Singh Nagar, Opposite MCO Primary School, New Delhi-110018 which is totally Illegal/unauthorized and has been constructed in total derogation with and against the municipal laws/norms ; and/or

c) Issue a writ of mandamus or any other appropriate writ directing the Respondent No.2 and 3 to immediately restrain respondent no. a from use of illegal borewell at property bearing no. WZ-7A/ 1, Krishna Nagar, Major Bhupinder Singh Nagar, Opposite MCD Primary School, New Delhi-110018; and/or

d) Issue a writ of mandamus or any other appropriate writ directing the Respondent NO.2 and 3 to initiate necessary legal action to shut the said borewell permanently at property bearing no. WZ-7A/1, Krishna Nagar, Major Bhupinder Singh Nagar, Opposite MCD Primary School, New Delhi-110018 in order to safeguard the area from any occurrence of any incident of land subsidence or so; and/ or

e) Issue a writ of mandamus or any other appropriate writ directing the Respondents No. 1 to 3 to immediately initiate departmental enquiry/ investigation against the corrupt/concerned officials due to whose negligence/connivance the said illegal/unauthorized construction has taken place upto the multi storey building level..”

7. The petitioner, who is an immediate neighbour of R-4, is aggrieved by the inaction of the respondent-Corporation apropos the

illegal/unauthorized construction carried out by the R-4 in the neighbouring property, including encroachment upon the public land.

8. The learned Standing Counsel for the Corporation submits that a building plan was sanctioned, upon site visit it was noticed that excess coverage has been made, therefore stator notice has been issued to the property owner/builder. It has also been noticed that municipal land has been encroached upon. Some photographs of the construction are as under:



9. It is evident from the photographs that the property comprises five floors including the ground floor. Surely, it must have taken months to construct the said floors. This could not have escaped the attention of the officials/field staff of the Corporation i.e. the Junior Engineer and Assistant Engineer. It is not for the citizens to keep intimating the Corporation about any or all unauthorized/illegal construction being

carried out. The Corporation is expected to keep vigil about such activities/actions. The encroachment upon public land should have been noticed and stopped right at the inception. The officials/field staff of the Corporation, in not being vigilant have either failed in their duties or have otherwise overlooked the encroachment. Public lands cannot be trifled with so effortlessly. Right of way and right of the citizens to public lands must be scrupulously guarded. A borewell too is said to have been made operational, without permission. This too was not noticed by the field staff.

10. In the circumstances, the Deputy Commissioner of the Zone shall initiate appropriate measures apropos the failure and/or lapse on the part of the field staff of the Corporation within two weeks from date of receipt of a copy of this order. Corrective measures apropos the unauthorized construction shall be initiated within a week from today and a compliance report shall be filed within four weeks from today. The SHO of the area concerned shall render all assistance as may be requisite. The petitioner shall be kept intimated by the Corporation about the action being taken by it in the matter.

11. The petition is disposed off in terms of the above.

12. List on 8th September 2020 for compliance affidavit.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

JULY 22, 2020/rd