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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 25.08.2020

+ LPA 210/2020 & CM APPL.19351/2020

PALVINDER KAUR & ORS.

..... Appellants

Through: Mr. Pratap Ranjan Sahani, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through: Ms. Puja Kalra, Adv. for R-1 & 2.
Mr. M.S. Vinaik, Adv. for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

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

Proceedings in the matter have been conducted through video conferencing.

LPA 210/2020 & CM APPL.19351/2020

1. This appeal has been preferred by the original petitioner, being aggrieved and dissatisfied by an order and judgment of the learned Single Judge dated 21.11.2019 in CM APPL. 18607/2020 in W.P.(C) 13386/2018.
2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that the appellant had preferred a writ petition being W.P.(C) 13386/2018 with the following

LPA 210/2020

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prayers:-

“a) Issue a writ of mandamus/direction to the official respondents No.1 and 2 and set aside/quash the impugned order dated 07.12.2018 passed by the respondent no. 1 and 2; and

b) Pass such other and further order(s) as deem fit shall also be passed in favour of the petitioner.”

3. It further appears from the facts of the case that the learned Single Judge had disposed of W.P.(C) 13386/2018 vide judgment and order dated 21.11.2019 (Annexure A-9 to the memo of this LPA) with certain directions given to North Delhi Municipal Corporation (“NDMC”).

4. It appears that the respondent no. 3 contended that the action taken by NDMC pursuant to the said judgment and order dated 21.11.2019 was not in terms of the directions issued by the Court. However, instead of filing a Contempt application for alleged breach of an order of the learned Single Judge dated 21.11.2019, respondent no. 3 in W.P.(C) 13386/2018 preferred CM APPL. 18607/2020 in the disposed of writ petition. This is an error apparent on the face of record.

5. It ought to be kept in mind that once the writ petition is disposed of, the Court ceases to be *in siesin* of the matter. No application in a disposed of writ petition is tenable at law except:-

- (a) When a party seeks review of the order passed; or
- (b) When any correction of a clerical or typographical error is required; or
- (c) For some clarification or modification of the order.

6. Except in the aforesaid eventualities, once the final order is passed by

the Court in any pending matter, no substantive application can be entertained in the disposed of petition.

7. However, in the present case, the learned Single Judge has entertained CM APPL. 18607/2020 preferred in a disposed of W.P.(C) 13386/2018 and has passed the impugned order on 11.08.2020 (Annexure A-1 to the memo of this LPA). The learned Single Judge has recorded the contentions of the respondent no. 3 (applicant before the learned Single Judge) and directed NDMC to take a fresh call in the matter after hearing the parties. The respondent no. 3 has thus succeeded in its challenge to the order of NDMC by filing an application in the disposed of writ petition.

8. Being aggrieved and feeling dissatisfied by the aforesaid order dated 11.08.2020 passed in CM APPL. 18607/2020 in W.P.(C) 13386/2018, the present Letters Patent Appeal has been preferred by the original petitioner.

9. Looking to the fact that in a disposed of writ petition, CM APPL. 18607/2020 was preferred by the respondent no. 3 in W.P.(C) 13386/2018, which is not permissible in the eyes of law, we are of the view that the respondent no. 3 ought to have been relegated to its independent remedies as may be available in law. Once the matter is over, no civil miscellaneous application can be entertained in a disposed of writ petition except as stated hereinabove.

10. Much has been argued by the counsel for the appellant/original respondent No.3 who had preferred CM APPL.18607/2020 before the learned Single Judge regarding violation of the directions of the writ court in the final order dated 21.11.2019 by North Delhi Municipal Corporation. Even if there is a violation of the direction given by the learned Single Judge, then also civil miscellaneous application cannot be filed once the writ

petition is disposed of. The remedy is always available by way of contempt application to be preferred by the concerned party. In a Contempt application, the Court can always adjudicate the question of wilful disobedience of the directions. This aspect of the matter has not been properly appreciated by the learned Single Judge, while passing the judgment and impugned order dated 11.08.2020 in CM APPL. 18607/2020 in a disposed of writ petition being W.P.(C) 13386/2018.

11. We, therefore, quash and set aside the order passed by the learned Single Judge dated 11.08.2020 in CM APPL. 18607/2020 in W.P.(C) 13386/2018. The respondent no. 3 (original applicant in CM APPL. 18607/2020) is at liberty to initiate such other proceedings, as may be available in accordance with law.

12. The Letters Patent Appeal is allowed and disposed of. The pending application also stands disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

AUGUST 25, 2020
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