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

+ LPA 216/2020 & CM APPLs.19518-24/2020

MADAN SINGH

..... Petitioner

Through: Mr. Satyendra Kumar, Adv.

versus

AMARNATH & ORS.

..... Respondents

Through: Mr. Varun Chandhioke, Adv. for R-1
along with R-1 in person.

Mr. Kunal Vajani with Ms. Savya
Baweja, Adv. for SDMC.

Mr. Sunil Fernandes, Standing
Counsel with Mr. Shubham Sharma,
Adv. for R-3/BSES RPL.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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19.08.2020

Proceedings in the matter have been conducted through video conferencing.

CM APPL.19520/2020 (exemption from filing certified copies), 19521/2020 (exemption from giving digital signatures in filing LPA) & 19524/2020 (exemption from filing official translation of annexures)

Allowed, subject to just exceptions.

The applications stand disposed of.

CM APPLs.19519/2020 (exemption from filing attested affidavit) & 19523/2020 (exemption from filing court fee)

The present applications under Section 151 of the Code of Civil Procedure, 1908 have been filed on behalf of the applicant seeking exemption from filing duly signed and affirmed affidavits in support of the

accompanying applications and to pay the requisite court fees.

For the reasons stated in the applications and in view of the present prevailing situation, the same are allowed. The applicant is allowed to file the duly signed and affirmed affidavits within a period of one week from the date of resumption of regular functioning of the Court. Further, the applicant is allowed to file the requisite court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

With the above directions, the present applications are disposed of.

LPA 216/2020 & CM APPLs.19518/2020 (for interim relief) & 19522/2020 (addl. docs.)

1. The present respondent No.1 (the original petitioner in W.P.(C) 5037/2020) has preferred the writ petition with the following prayers:

- “a) Issue writ in the nature of mandamus or any other appropriate writ, order or direction thereby directing the respondent no. 1 to demolish and seal the existing illegal and unauthorized construction of property no.647, Prem Gali No.5, Kotla Mubarakpur, New Delhi with immediate effect;*
- b) Issue writ in the nature of mandamus or any other appropriate writ, order or direction thereby restraining the respondent no.3 from carrying out further illegal and unauthorized construction at the aforesaid property no.647, Prem Gali No.5, Kotla Mubarakpur, New Delhi; And*
- c) Issue writ in the nature of mandamus or any other appropriate writ, order or direction thereby directing the respondent no.2 to ensure the safety of the petitioner as well as other local residents from any untoward incident which is in danger due to the illegally taking inside the electricity Pole and LT distribution box inside the property.*

d) Pass any other or further order, as this Hon'ble Court my deem fit and proper in the interest of justice."

2. The said writ petition is pending and because of few observations of the learned Single Judge, especially in paragraphs 5 and 9 of order dated 06.08.2020, the present Letters Patent Appeal has been preferred.

3. It is vehemently contended by learned counsel for SDMC that this appellant (originally respondent No.3) is in the habit of making illegal construction.

4. It appears from the facts of the case that Action Taken Report has been called for from South Delhi Municipal Corporation (SDMC) and BSES Rajdhani Power Limited before the present appellant (original respondent No.3) was given notice of the writ petition or opportunity of hearing. We therefore consider it appropriate to grant an opportunity to the appellant (original respondent No.3) to prefer an application for modification of the impugned order dated 06.08.2020 before the learned Single Judge.

5. In the meanwhile, status quo with regard to the property in question as of today shall be maintained by the parties to W.P.(C) 5037/2020 till 02.09.2020, 5:00 p.m.

7. We have not expressed any opinion on the merits of the case and the writ petition will be decided on its own merits and in accordance with law.

8. With these observations, the present Letters Patent Appeal is hereby allowed to the aforesaid extent and disposed of.

CHIEF JUSTICE

AUGUST 19, 2020/kks

PRATEEK JALAN, J

LPA 216/2020

Page 3 of 3