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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 03.09.2020

+ W.P.(C) 5950/2020

DILIP KUMAR

..... Petitioner

Through: Mr. Kuldeep Vashisht, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION & ANR

..... Respondents

Through: Mr. Arjun Pant, Adv. for R-2.

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.

1. This so-called Public Interest Litigation has been preferred with the following prayers:-

“17. Wherefore in the light of issues raised, arguments presented and authorities cited, it is humbly prayed that this Hon’ble Court may be pleased to decree a writ of mandamus or any other writ, order or direction declaring that:

a. Respondents be held accountable for all violations of constitutional and legislative guarantees, which resulted in denying the poverty stricken slum dwellers

their right to healthy environment and no illegal construction specially where people visits regularity and that an independent inquiry be ordered to look into the incidents of violations.

- b. For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the Respondents to ensure effective implementation of their responsibilities.*
- c. For an order directing Respondents No. 1, 2 & 4 for immediate action against the respondent no. 3 thereby demolish the illegal construction and restore the building i.e ITL Twin Tower, Netaji Subhash Palace, Delhi - 110034 to its original structure. Also book the culprit to the justice.*
- d. For an order directing Respondent No. 3 for immediate stoppage of the works as danger to residents/passers by on the said building i.e ITL Twin Tower, Netaji Subhash Palace, Delhi - 110034.*
- e. For any such other and suitable order/s as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case and in the interest of justice.”*

2. Having heard learned counsel for the petitioner and looking to the facts and circumstances of the case, it appears that this is not a properly framed or constituted Public Interest Litigation at all, but a petition filed without required care or responsibility, for reasons best known to the petitioner.

3. Much has been argued by counsel for the petitioner about the so-called illegality in the construction, as stated in this writ petition, pertaining to the building in question, ITL Twin Towers at Netaji Subhash Palace,

Delhi.

4. It is narrated by counsel for the petitioner that the petitioner, while visiting one Bikanerwala shop, noticed two floors being constructed in the building i.e. ITL Twin Tower, Netaji Subhash Palace, Delhi-110034. The petitioner then arrived at a conclusion that as the building in question is an old construction, two additional floors cannot be built on the same.

5. However, there is no material at all disclosed in the petition to support this allegation that the construction is illegal or without sanction. The petitioner has neither stated the source of any information he might have received in this regard, nor the basis for his belief that the construction is illegal. There is only a vague averment that the petition is based on information in the public domain, including the internet. This is hardly sufficient to form an opinion on the subject and move the Court by way of a public interest litigation.

6. Thus, without any basis and without any knowledge, this petition has been preferred alleging illegality in the construction.

7. The legality or otherwise of the construction cannot be established without any cogent and convincing evidence to be led before the concerned authorities or competent Court.

8. Moreover, the petitioner has made these allegations without even carrying out any inquiry as to the ownership or management thereof. The petitioner claims to have credible information regarding the illegality in the construction, but only the building itself i.e. ITL Twin Tower (“Through its Owner/ Management/ Director”) is joined as party respondent No.3. The owner of the said building is not identified or joined as a party respondent. The petitioner does not disclose that he had made any efforts whatsoever to

enquire into this aspect, before filing the present petition.

9. The petitioner, claiming to be a public spirited citizen and social activist, has approached this Court without even the minimal diligence. Other than photographs of the ongoing construction and the representations made by him, he has not annexed a single document in support of his allegations. This is wholly insufficient to meet the minimum threshold for a public interest litigation to be entertained.

10. For the above reasons, we are not inclined to exercise our powers under Article 226 of the Constitution of India to decide the legality or otherwise of the construction in question. It is made clear that dismissal of this petition does not constitute any expression of opinion on this question.

11. Hence, there is no substance in this writ petition and the same is dismissed with costs of Rs.25000/- to be paid by the petitioner to the Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized for the programme “Access to Justice”.

12. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

CHIEF JUSTICE

PRATEEK JALAN, J

SEPTEMBER 3, 2020/kks