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

+ **W.P.(C) 6213/2020**

SH. RAVI CHAWLA

..... Petitioner

Through: Mr Sachin Puri, Senior Advocate with
Mr Ankit Shah, Mr Dhananjay
Grover and Ms Srishti Thukral,
Advocates.

versus

**NORTH DELHI MUNICIPAL
CORPORATION & ORS.**

..... Respondents

Through: Ms Mini Pushkarna, Standing
Counsel for North DMC/R-1&2 with
Ms latika Malhotra , Advocates.
Mr. Samrath Raj Mehta, Adv. for R-
4.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 10.09.2020

The hearing was conducted through video conferencing.

CM APPL. 22256/2020 (Exemption)

1. Allowed subject to all just exceptions. The application stands disposed-off.

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2. Issue notice.
3. Notice is accepted by the learned counsels named-above for the respondents.
4. At the request of the learned counsels for the parties, the petition is taken up for disposal.

5. The petitioner is aggrieved by the damage being caused to his property i.e. basement in W-13, 3rd Floor, West Patel Nagar, Main Road, Opposite Metro Pillar No.219, New Delhi. It is identified by the Corporation as property bearing number BP-13, West Patel Nagar, New Delhi. According to the petitioner, due to the unauthorized construction of the third floor of the said property, its basement has got flooded with rainwater and caused extensive seepage in the walls and damage to the electric fittings, etc. Photographs of the same have been annexed with the petition. The petitioner's representation to the Corporation on 05.08.2020 has not yielded any response, thus constraining him to file the present writ petition.
6. The learned counsel for respondent no.4 states that the writ petition is an abuse of process of Court and the petitioner has not come with clean hands, as he is not the owner of the property and only a transferee *pendete lite*. He submits that there are orders which do not recognize the petitioner's right in the property and he cannot assert any proprietary or other right in it.
7. The learned counsel for the petitioner submits that the property has come into the possession of the petitioner by way of an order dated 16.01.2013 passed by the learned ADJ-08, Central, Delhi in Execution Petition No. 22/2012, titled: Charanjeet Singh Chadha vs Neeraj Malhotra. The said order reads as under:

".... Their statement recorded today. So far as the decree for possession is concerned, that stands satisfied in view of the settlement arrived and according to the settlement the DH had sold the property for a consideration of Rs. 10,00,000/- which he has already received and he has

already delivered the possession to the objector. Objections also dismissed in view of the settlement arrived. The part of the decree still remains unexecutable as the money decree is not satisfied..”

8. Furthermore, the peaceful physical possession of the property was delivered to the petitioner by the person who was in possession at that time. The latter's statement is recorded before the Trial Court as under:

“....Statement of Sh. Charanjeet Singh Chadha, son of Sh. Jaswant Singh Chadha, r/o N-6, Green Park, New Delhi

On SA

I am the DH as well as owner of the suit property i.e. W-13, Lower ground floor, front portion, Pushpadeep Apartment, West Patel Nagar, New Delhi measuring 477.20sq. ft. The JD or Sh. S.K. Jain have no proprietary right in the suit property. I have entered into an amicable settlement with the objector Sh. Ravi Chawla and Raman Arora, by virtue whereof, I have agreed to sell the portion i.e. suit property to them for a total consideration of Rs. 10,00,000/- only on the assurance given by the objectors that they will help me for recovery of the money decree of the present suit against the JD. I shall also execute the necessary registered transfer document in their favour or in favour of their nominee on the payment of the aforesaid amount, however subject to the objector taking necessary permission from the concerned department, though I undertake to assist the objectors and execute the necessary documents in favour of the objector to the said effect. I further undertake to execute the receipt, general power of attorney, GPA and agreement to sell etc. in their favour pursuant to the present settlement. I shall also give the due undertaking or no objection in case any prior permission is required for the transfer of the suit property from the builder. The objector as well as Raman Arora handed over the possession of the suit property in their possession to me, however, by virtue of the present settlement, I have given back the possession to them i.e.

Sh. Ravi Chawla and Mr. Raman Arora after taking the entire sale consideration of Rs. 10,00,000/- I confirm the receipt of an amount of Rs. 10,00,000/- by way of bank draft no. 942412 dt. 09.01.2013 drawn on Kotak Mahindra Bank, Darya Ganj, Delhi. On the receipt of the said amount, I further confirm that my decree for possession in the present suit stands satisfied. All the original title document in respect of the suit property stands filed in the main suit of the present execution petition and I undertake to hand over the same to the objector after taking back the same from the court as per law...”

9. What emanates from the above is that the petitioner is in lawful peaceful possession of the property, which is pursuant to a Court order. Pending rival claims to its title and rights, etc. need not be looked into in this petition. What is to be seen is whether an unauthorized construction has caused any damage and/or is otherwise hampering the optimal use of the basement, which the petitioner is in possession of.
10. The learned Standing Counsel for the Corporation submits that the property was inspected on 08.09.2020; no ongoing construction was found; the Corporation will examine the Sanctioned Building Plan to assess deviations, if any, and will take appropriate action as per law.
11. This petition shall be treated as a petitioner's further representation to the Corporation, which shall hear all the parties concerned and take action as it deems appropriate within a period of four weeks from today. Nothing stated in this order shall be deemed to be an adjudication on the merits of the claims of the parties apropos title, interest, etc. apropos the property, in any pending litigation.
12. The petition stands disposed-off in terms of the above.

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

NAJMI WAZIRI, J

SEPTEMBER 10, 2020/rd/kk