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

+ **W.P.(C) 6427/2020**

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Decided on: 16th September, 2020

DARGAH E ISLAMIA INTEZAMIA COMMITTEE

THROUGH: ITS GENERAL SECRETARY Petitioner

Through: **Rasheed Abdus Sattar Qureshi, Adv.**

Versus

HONBLE LT GOVERNOR OF DELHI & ORS. Respondents

Through: **Mr.Madhu Sudan Bhayana, Adv. for**
GNCT Delhi for R-1.

Mr.Akhil Mittal, Standing Counsel for R-2,3&4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: 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 for the following prayers:-

“A. Issue a writ, order, direction in the nature of mandamus to the respondents, more particularly respondent no.3 restraining them from new illegal construction or Malba Dumping or keeping labourers on the encroached green land.

B. Grant ad-interim ex-parte injunction to the petitioners against illegal actions of the respondent no. 3 with respect to new illegal construction or Malba Dumping or keeping labourers on the encroached green land.

- C. Issue a writ of mandamus or any other appropriate writ, order or direction to the respondent no. 2 to immediately demolish the entire illegal encroachment from the green land including the permanent structures and developing this area as green belt by planting greenery.
- D. Fixing the responsibility of the respondent no. 3 for illegal encroachment on green land, responsibility of respondent no.2 for not protecting its property and allowing encroachment of green land. Penalty be imposed on respondent No.2 and 3 for their willful negligence.
- E. Fixing the responsibility of the respondent No.4 (DDA) for wrongfully transferring encroached green land to North-MCD Hort Rohini Zone without removing the illegal encroachment. Penalty be imposed on respondent No.4 and their officials for their willful negligence. F. Pass such further or other orders which this Hon'ble Court deems fit and proper in the facts and circumstances of the case in the public interest.”

2. Having heard the learned counsel for the petitioner and looking to the facts and circumstances of the case, it appears that the petitioner has raised allegations about the illegal construction and illegal actions taken by respondent No.3/North Delhi Municipal Corporation.

3. The illegality or otherwise of the construction cannot be decided in this writ petition. The petitioner has failed to demonstrate any illegality or violation on the materials placed on record. There are only vague allegations about encroachment of land, illegal construction and the existence of a high tension electricity line on the land adjoining the petitioner's property. The illegality of the construction can be established only by cogent and convincing evidences to be led before the concerned Court.

4. We are, therefore, not inclined to issue any writ, order or direction upon the respondents.

5. Liberty, however, is reserved with the petitioner to prefer a representation before the concerned respondent authorities. As and when such a representation is filed, the concerned respondent authorities shall decide the grievances ventilated in the representation in accordance with law, rules, regulations and Government policies applicable to the facts of the case, after giving adequate opportunity of being heard to the concerned parties.

6. With these observations, this writ petition is dismissed.

CHIEF JUSTICE

PRATEEK JALAN, J

SEPTEMBER 16, 2020
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