

\$~8

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 6565/2020

RESIDENT WELFARE ASSOCIATION

.....Petitioner

Through: Mr Chatanya Siddharth and Mr Anil
Rakhra, Advocates.

versus

COMMISSIONER EDMC & ORS.

..... Respondents

Through: Ms Tajinder Virdi, Advocate for
EDMC/R-1&2.

Mr Sanjay Dewan, Advocate for R-3
& 4.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

17.09.2020

The hearing was conducted through video conferencing.

1. Issue notice.
2. Notice is accepted by the learned counsels as named above for R-1 to R-4.
3. At the request of the learned counsel for the parties, the petition is taken up for disposal.
4. The case was passed over for the learned counsel for the respondents to obtain instructions.
5. The petitioner seeks the following relief(s):

“(a) to issue a writ of mandamus, order and direction to the respondent nos. 1 to 4 to take appropriate action against the respondent no.4 & 5, in the interest of justice;

(b) to issue a writ of mandamus, order and direction to the respondent nos. 1 to 4, to seize the vehicles of the commercial establishments of respondent no.5 & 6 and its tenants, agents and employees on continuous repetition of offence and parking

in the residential lane/roads in the interest of justice.

(c) to issue a writ, order and direction to the respondent nos. 5 & 6, to stop all the commercial activity (except in their respective premises) including parking etc in the residential lane/road with immediate effect;

(d) issue a writ, order and direction to the respondent nos. 5 & 6 to stop all the commercial activity (except permissible under law) in their respective premises from the basements with immediate effect;

(e) issue a writ, order and direction to the respondent no.1 to 4 to show cause explaining, that why no action has been initiated against respondent nos. 5 & 6 till date, and may take appropriate action against the respondent nos. 1 to 4 for delinquent in duty and perpetuating the crime and offence since long overlooking the Hon'ble Court orders and directions passed in similar cases, in the interest of justice;

(f) issue a writ, order and direction to the respondent no.5 to remove the generator installed and fixed on the public road covering almost 50% of the side lane, in the interest of justice..."

6. The photographs filed along with the petition are as under:









7. The learned counsel for the Delhi Police submits that as of today, there are no stray/offending/objectionable vehicles parked on the street which could cause any grievance to the petitioner association. This is because the Corporation and other authorities have taken action; and the entire process has been photographed and video-recorded. In support of his contentions, he relies upon the following photographs:





8. The learned counsel for the Corporation submits that in an exercise carried out today, the Corporation has cleared the street and there are no impediments remaining. She submits that the illegal structures and installations that were seen have already been removed, and the Corporation has ensured that no such structure exists at the site. She further submits that the Corporation shall take appropriate action as required in the area and more specifically, as agitated in this petition and as shown in the photographs hereinabove. The Corporation shall also ensure that the right of way is kept cleared for all times.
9. The learned counsel for the petitioner relies upon the photographs reproduced in para 6, which shows that an electricity generator has been kept on the street. The learned counsel for the petitioner submits that it is impossible for the Corporation to have removed such a large and heavy structure in a couple of hours and that they be put to strict proof of its removal.
10. Should the structure still be found at the site, the officer concerned shall be put to terms. If it has been removed or it is removed in the next few weeks, the matter shall stand closed. The Corporation, however, at all times is to ensure that no such encroachment is permitted on the right of way.
11. Let compliance affidavits/reports be filed by both the Corporation as well as by Delhi Police within two weeks from today, along with photographs and videography, failing which the case shall be listed for directions on 3.11.2020. The Delhi Police shall ensure that unauthorised parking and/or stray vehicles are not left behind on the street, which could in any way impede the smooth flow of traffic or

block the right of way. Furthermore, the ingress and egress into the petitioner's colony shall be kept free from obstruction and it shall be ensured that it remains unhindered at all times. The Corporation too shall take action in this regard.

12. No further orders are called for at this stage. The petition is disposed-off in terms of the above. Should the petitioner have any grievance, it will be open to it to approach the Court in accordance with law.
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 17, 2020/rd