

\$~6

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

+ **W.P.(C) 6560/2020 & CM APPL. 22940/2020**

M.G. ANSTIN ARASU Petitioner

Through: Petitioner in person.

versus

**GOVT OF NCT DELHI THROUGH ITS CHIEF SECRETARY &
ORS.** Respondents

Through: Mr. Rajesh Kumar Agnihotri,
Advocate for R-1, R-4 & R-5.
Ms. Puja Kalra, Advocate for R-2 and
R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

17.09.2020

The hearing was conducted through video conferencing.

CM APPL. 22941/2020 (exemption)

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

W.P.(C) 6560/2020 & CM APPL. 22940/2020 (stay)

3. The petitioner is aggrieved by the inaction of the South Delhi Municipal Corporation ('SDMC') apropos the unauthorised construction immediately next to his house, no. 1093(New Khasra No.1151/3 Min)/1-79, Rhythm House, Church Colony, Ward No.1, Mehrauli, New Delhi-110030, which is open from 3 sides. He is in clear possession of easement rights, which are sought to be

encroached upon by the illegal construction.

4. Issue notice.
5. The learned counsel as noted above accept notice on behalf of the respondents.
6. The petitioner wrote to the South Delhi Municipal Corporation ('SDMC') on 31.07.2020. For some strange reason, the Corporation states that the complaint was received only on 04.08.2020. Therefore, the aforesaid contention of the Corporation is *ex facie* incorrect. The petitioner followed his complaints up with the local police and the SDM of the area concerned. He also posted his complaint by Speed Post on 31.07.2020 itself. Surely, the complaints must have reached the addressees 3 days thereafter.
7. According to the petitioner, the illegal construction has encroached upon the public street and building material is still strewn around, obstructing the right of way. The Corporation is stated to have carried out some demolition action on 11.09.2020, and further action is contemplated on 01.10.2020.
8. According to Ms. Kalra, the learned counsel for the SDMC, the ongoing construction is an encroachment on public land, and it can, therefore, be removed immediately. In the circumstances, let the Corporation carry out removal of the encroachment, as it deems appropriate, within 2 weeks from today. The Corporation's Deputy Commissioner and the DCP of the area concerned are expected to look into the manner in which the encroachment has happened and ensure that it is set right. They shall ensure that the public street is cleared of all building material. The Corporation may take assistance

of the local police, as per law.

9. In view of the above, let compliance affidavits as to how the unauthorised construction came about be filed in 3 weeks from today, by both the Corporation and the police, with the prior concurrence of the Deputy Commissioner (SDMC) of the area concerned, and also with the approval of the Deputy Commissioner of the Police concerned. Photographs of the removal of the encroachment shall also be filed.
10. The writ petition, along with the pending application, is disposed-off in terms of the above.
11. Should the parties have any grievance, it will be open to them to take recourse to remedies as may be available in law.
12. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J

SEPTEMBER 17, 2020

AB