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

Date of Decision: 03.02.2020

+ W.P.(C) 1393/2013

PANKAJ SHARMA

..... Petitioner

Through: None

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS

..... Respondents

Through: Mr. Mukesh Gupta, Standing Counsel
with Mr. Ajjay Arora & Mr. Kapil Dutta, Adv.
for SDMC/R-1

Mr. Anuj Aggarwal, ASC with Mr. Anshuman
Kumar, Adv. for R-2 & R-18

Mr. Anirudh Tyagi, Adv. for R-3, R-21, R-23 &
R-37.

Ms. Anju Lal & Ms. Shalu Lal, Adv. for R-6

Mr. Ajay Digpaul, CGSC with Mr. Aaryan Verma,
Adv. for R-17

Mr. Ajay Verma, SSC with Ms. G.S. Oberoi &
Mr. Ankur Sharma, Adv. for DDA

Mr. Anish Khanna & Mr. Lakshay Mehta, Adv.
for Employees of Bars, Pubs, Restaurant, etc.

Dr. Lalit Bhasin, Ms. Ratna Dwivedi Dhingra,

Ms. Annanya Marwah, Adv. for National

Restaurant Association of India

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. When the matter is called out nobody appears for the petitioner.

2. We have heard the counsel for respondent Nos.1 to 3, 6, 18, 21, 23 and 37. We have also heard the counsel for Delhi Development Authority. It appears that there are several allegations against respondent Nos. 3 to 7 about the illegal construction and illegal use of the construction at property Nos. 8A, 40, 45A, 50A, 50B, 50C, 50D, 50E and 50F, Haus Khaz Village.

3. The prayers in this Public Interest Litigation read as under:

“(a) Issue a writ/direction/order in the nature of mandamus thereby directing the Respondents No.1 & 2 to take immediate and prompt and appropriate legal action of sealing and demolition against the illegal and unauthorized construction by Respondent No. 3 to 7 in the Properties No.8A, 40, 45A, 50A, 50B, 50C, 50D, 50E and 50F, Haus Khaz Village, New Delhi.

(b) Issue a writ/direction/order in the nature of mandamus thereby directing the Respondents No.1 & 2 to take immediate and prompt and appropriate legal action under law against the illegal running of restaurants, pubs, bars and cafes etc. by the Respondent Nos.8 to 42 in Khaus Khaz Village, New Delhi since the said business is being run without procuring the requisite permission, licenses, NOC from the concerned authorities.

(c) Pass any other and further order/relief which this Hon’ble Court may deem fit and proper in favour of the Petitioner and against the Respondents.”

4. It appears that the legality or otherwise of the construction cannot be decided in the writ petition as proper, cogent and convincing evidences are required to be led before the concerned trial court. It has been pointed out by respondent No.6 that they are not running any Restaurant, Pub, Bar etc. at the premises mentioned in this writ petition and the said premises are in fact vacant offices.

5. We, therefore, direct respondent No.1 – South Delhi Municipal Corporation to give adequate opportunity of being heard to the owners/occupiers of the premises which are mentioned in the memo of this writ petition situated at Hauz Khas, New Delhi and thereafter respondent No.1 will decide legality or otherwise of the construction in question in accordance with law, rules, regulations and Government policy applicable to the facts of the present case. If the respondent No.1 comes to the conclusion that the construction carried out by respondent Nos.3 to 7 are illegal, the same shall be demolished by the respondents in accordance with law, rules, regulations and Government policy applicable to the facts of the present case as early as possible and practicable.

6. The petitioner is at liberty to move this Court in case of any difficulty by way of fresh litigation.

7. In view of the aforesaid observations, this writ petition stands disposed of.

C.M. Nos.2621/2013 & 36002/2017

8. In view of the final order passed in W.P.(C) 1393/2020, both the applications stand disposed of as infructuous.

CHIEF JUSTICE

C.HARI SHANKAR, J

FEBRUARY 03, 2020/ns