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

Date of decision: 13th January, 2020

+ W.P.(C) 7856/2018 and CM No. 30143/2018

AJAY DUBEY

..... Petitioner

Through: Ms. Sugandha Anand, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, Central
Government Standing Counsel with

Mr. T.P. Singh, Adv. for R-1, 2, 5 and 10

Ms. Vaishali Goyal, Adv. for R-3

Mr. Rahul Sharma and Mr. C.K. Bhatt, Advs. for
R-4/National Zoological Park

Mr. Sanjeev Sagar, Standing Counsel-DDA with
Mr. Jagdeep Kr. Sharma, Additional Standing
Counsel-DDA and Ms. Nazia Parveen, Adv.

Ms. Richa Dhawan, Standing Counsel-South Delhi
Municipal Corporation/R-7

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

13.01.2020

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D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 7856/2018

1. This so called Public Interest Litigation has been preferred with the following prayers :

“a) Issue appropriate writ, order or direction restraining the Respondent No. 3 from carrying out the illegal construction undertaken by Respondent No. 3 (NBCC) on land measuring 6.106 acres of Pocket "B" in the area around Bhairon temple (the land in question) and Dudhiya Bhairon Temple behind Purana Qila and Pocket "C" approximate 14 acre i.e. lake and, park left hand side in front of Purana Qila, New Delhi in collusion with the Respondent No. 2 (ASI) on the land around Purana Qila

b) Direct the Respondent No. 2 & 3 to demolish the illegal structure constructed on the land as mentioned in prayer (a)

c) direct the Respondent No.3 and Respondent No. 2 (ASI) to restore the said land as described in prayer (a) as green and make sure that it is in the same condition when it was handed over to the Respondent No. 2 (ASI) on an "as is where is" basis

d) Direct the Respondent No. 5 to handover the said land as described in prayer (a) back to the Respondent No. 2 (ASI)

e) Direct the Respondents not to raise any constructions in future in the green area as described in prayer (a) and also around the National Zoological Park and Purana Qila

f) Pass any other writ, order or direction this court may deem fit and proper under the facts and circumstances of this case.”

2. Having heard learned counsel for the petitioner and looking to the facts and circumstances of the case, it appears that the main grievance of the petitioner is about so-called illegal construction activity, carried out by the respondent no.3 i.e. National Building Construction Company (NBCC) at the place which is mentioned hereinabove.

3. Respondent no. 3 is a Government undertaking. The legality or otherwise of a construction cannot be decided in a writ petition. Instead, it requires cogent and convincing evidences to be laid before the Trial Court. Several factual aspects might have been involved in this case which need to be established by this petitioner before labeling the construction in question as illegal construction. In such type of cases, with regard to grievances made about the illegal construction, the best remedy available is to file a suit.

4. Hence, we see no reason to entertain this Public Interest Litigation and the same is therefore dismissed.

CM No. 30143/2018

1. In view of the dismissal of the writ petition, this application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

JANUARY 13, 2020/kr