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

Date of Decision: 03.02.2020

+ W.P.(C) 11268/2016

IQBAL CHAUHAN

..... Petitioner

Through: None

versus

SOCIAL & TINUR RESTAURANT THR
SATYAJIT DHINGRA & ORS

..... Respondents

Through: Ms. Syel Trehan, Adv. with
Mr.Raghav Anand, Adv. for R-1 & R-2
Mr. Mukesh Gupta & Mr.Ajjay Aroraa, Standing
Counsel with Mr. Kapil Dutta, Adv. for R-3/
SDMC

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. This petition has been preferred with the following prayers:-
 - “a) Direct the Respondent No.3 to take the necessary action for removal of the illegal running of Restaurant-cum-Bar.*
 - b) Issue a writ of mandamus or any other appropriate writ/order or direction to the Respondent no. 3 to submit the status report in respect 9A, 123 & 133 Hauz Khas Village, New Delhi.*

c) Direct the Respondent No. 3 to initiate appropriate action against the Respondent. No. 1 & 2 for not to run the illegal Restaurant-cum-Bar; and

d) Direct the Respondent no. 3 to seal the property bearing no. 9A, 12B and 13B permanent for misusing the premises by running restaurant & Bar without obtaining permission from competent Authority.

e) Pass any other relief, which this Hon'ble Court may deem fit, and proper in the interest of Justice.”

3. We have heard the counsel appearing for respondent No.3 – South Delhi Municipal Corporation as well as counsel for respondent No.1 against whom all allegations have been levelled in this writ petition about so-called illegal construction and for removal of the restaurant-cum-bar of respondent No.1.

4. Counsel for respondent No.1 submitted that neither there is any illegality in the construction nor in the usage of the property in question by respondent No.1. It is further submitted by the counsel for respondent No.1 that earlier also the very same petitioner has preferred W.P.(C) No.4409/2015 which was finally disposed of by this Court *vide* order dated 20.07.2016. Thus, for the very same purpose this writ petition has been preferred which is not permissible in the eyes of law.

5. Looking to the prayers of this petitioner regarding removal of so-called illegal restaurant-cum-bar owned/occupied by respondent No.1. It appears that no such order can be passed by this Court without there being any cogent and convincing evidences on record. It also appears that previously also this very petitioner has preferred W.P.(C) 4409/2015 which was disposed of *vide* order dated 20.07.2016. Nonetheless, we hereby direct

respondent No.3 to arrive at a conclusion about legality or otherwise of the construction of respondent No.1 as pointed out by this petitioner after giving an adequate opportunity of being heard to respondent No.1 and if it is found to be illegal, action in accordance with law, rules, regulations and Government policy applicable to the facts of the present case shall be taken by the respondent No.3 as early as possible and practicable.

6. With these observations, this writ petition stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

FEBRUARY 03, 2020
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