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

+ W.P.(C) 1445/2021 & CM No. 4141/2021 (Stay), CM No. 4142/2021
(Exemption)

BIR SINGH

..... Petitioner

Through
versus

Mr.S.B. Sharma, Advocate

NCT OF DELHI & ORS.

..... Respondents

Through

Ms.Shobhna Takiar, Advocate for
Respondent Nos.1, 5 to 7, 10, 13 &
14.

Ms.Prabhsahay Kaur, Advocate for
Respondent Nos.3 & 4 to 11.

Mr.Murari Kumar, Advocate for
Respondent Nos.8 & 9.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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04.02.2021

Proceedings in the matter have been conducted through video conferencing.

1. This Public Interest Litigation has been preferred for the following reliefs:-

“(a) *Pass an appropriate order issuing the writ of mandamus or any other writ thereby the respondents be directed to get the illegal encroachment removed/demolished from and nearby Andolan Park, Sheikh Sarai now known as Savitri Nagar, New Delhi situated on Gram Sabha/ Johar (Pond) land encroached illegal parking, shop keepers, service centre owners or any other persons around Andolan Park.*

b) *Pass an order thereby the respondents be directed not to take forcible possession of Andolan Park/Pond land of village Sheikh Sarai now known as Savitri Nagar, New Delhi.*

- c) *Pass an order whereby the officials of respondents be directed not to interfere in any activity of villagers i.e. Andolan Park/Pond land of village Sheikh Sarai now known as Savitri Nagar, New Delhi belonging to the villages which is being used by the villagers for public purpose like public meeting. Social functions, walking. Greenery, playing of kids etc.*
- (d) *Any other relief which this Hon'ble Court deems fit and proper, in the facts and circumstances of the present case, may also be granted in favor of petitioner."*

2. Having heard learned counsel for the petitioner and looking to the facts and circumstances of the case, it appears that there are several allegations levelled by the petitioner that there is unauthorised construction at Andolan Park, Sheikh Sarai now known as Savitri Nagar, New Delhi.

3. Counsel appearing for the petitioner has taken this Court to various photographs pointing out the unauthorised construction.

4. There cannot be a dispute on the fact that merely on basis of annexures and photographs annexed to a writ petition, the question of alleged unauthorised construction cannot be decided. Cogent evidence in the form of documents including Site Plans etc. has to be led before the appropriate authority or before the Trial Court in a civil proceeding to substantiate the case of unauthorised construction. Moreover, opportunity of being heard is required to be given to the owners/occupiers of the premises in question. In the absence of the aforesaid, no order can be passed either declaring the construction to be unauthorised or for demolition of the same. Therefore, merely on the basis of the photographs annexed by the petitioner, this Court cannot be called upon to decide the legality or otherwise of the constructions in question at Savitri Nagar, New Delhi.

5. In view of these facts, we hereby direct the concerned respondents/authorities to treat this writ petition as a representation and decide the grievances ventilated in this petition, especially with regard to the legality or otherwise of the alleged unauthorised construction at Savitri Nagar, New Delhi, as brought out in the memo of this petition. Needless to state that the decision shall be taken by the authorities, in accordance with law, Rules, Regulations and Government Policies, applicable to the facts of the case and after giving adequate opportunity of being heard to the concerned parties.

6. If the construction is found to be unauthorised, the concerned respondents/authorities shall remove/demolish the same, in accordance with law after giving adequate opportunity of being heard to the concerned parties, as expeditiously as possible and practicable. In case any stay/interim order has been granted by any of the Authorities/Tribunals/Courts with respect to the concerned premises, the same shall be kept in mind by the respondents/authorities, before taking a decision in passing an order and/or taking further action.

7. With these directions writ petition is hereby disposed of along with pending applications.

CHIEF JUSTICE

JYOTI SINGH, J

FEBRUARY 4, 2021/aa