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

% Date of Decision : 15th January, 2021

+ W.P.(C) 580/2021

PRASHANT BHARDWAJ & ANR. Petitioners

Through: Petitioners in person

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Chetan Sharma, ASG with
Mr. Anurag Ahluwalia, CGSC with Mr. Abhigyan
Siddhant, Mr. Nitnem Singh Ghuman & Mr. Amit
Gupta, Advs. for R-1

Mr. Naushad ahmed Khan, ASC (Civil) &
Ms. Shobhana Takiar, ASC with Zahid Hanief &
Ms. Manisha Chauhan, Advs. for GNCTD
Mr. Dhanesh Relan, Standing Counsel for
NDMC/R-3

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

1. This writ petition has been preferred with the following prayers:

“a. issue appropriate writ or direction against the respondents and its officers and employees to remove encroachment on the land admeasuring 30,000 sq. yds. (which was earlier F-Type

Quarters for Class-IV employees of Union of India) now popularly known as Sanjay Basti, adjacent to New Market, Timarpur, Near Balakram Hospital, Timarpur, Delhi;

b) issue appropriate writ or direction against the respondents and its officers and employees to secure the land on which the Urban Development Ministry can easily construct the flats for government servants and / or for other department;

c) Call for the entire record of W.P.(C) No.7323 of 2016, titled as "Manju Sachdeva vs. Union of India & Ors." to form part of record of this present petition;

d) pass any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

2. It appears from the facts of the present case that a number of houses are to be demolished as per the prayers of this writ petitioner. This direction cannot be issued by this Court in a Public Interest Litigation mainly for the following reasons:-

- (i) Owners/occupiers of the premises in question have not been impleaded as party respondents and in their absence a direction is being sought by the petitioners for demolition of the structures owned or occupied by them.
- (ii) No house/construction can be demolished without giving adequate opportunity of being heard to the owners/occupiers of the same;
- (iii) Legality or otherwise of the construction cannot be proved or established on the basis of bare assertions made in the memo of the writ petition. Cogent and convincing evidence is required to substantiate the alleged illegality of the construction/encroachment, especially when the constructions

are in existence for the last several years;

- (iv) It also appears from the averments made in the petition that the area in question is spread over 30,000 sq. yds. and a large number of persons are inhabiting the said area. All these persons have been staying there for the last several years and if at all, they can only be evicted by due process of law and initiation of appropriate proceedings in an appropriate Forum, with proper and complete documents, substantive averments/allegations and not on the basis of vague and unsubstantiated pleadings, as in the present petition.

3. The additional argument of the petitioners is that they had initially filed a similar writ petition, which was disposed of on account of the death of the petitioner therein and the present petition seeking the same relief has been filed by the petitioners in person, cannot also be of any avail to the petitioners, for the reasons mentioned above. It appears to us that this is not a Public Interest Litigation at all, but in fact a publicity interest litigation.

4. In view of the aforesaid reasons, we see no reason to entertain this writ petition and hence the same is dismissed with no order as to costs.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 15, 2021

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WP(C) 580/2021

Page 3 of 3