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

% *Date of Decision : 8th January, 2021*

\+ W.P.(C) 9418/2020

MR SATBIR .....Petitioner

Through: Mr. Shiv Gaur & Mr. Ankush Yadav, Advocates

versus

ARCHAEOLOGICAL SURVEY OF INDIA & ORS.....Respondents

Through: Mr. Naginder Benipal, Sr. Panel Counsel for GOI/R-1 & R-2
Mr. Rajesh Kumar Agnihotri, Advocate for R-3 & R-5
Mr. Tushar Sannu, Standing Counsel, SDMC with Ms. Ankita Bhadouriya & Mr.Subham Jain, Advocates for R-4

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 Public Interest Litigation has been preferred with the following prayers:

> *"a. Direct a thorough court-monitored investigation by SIT or by the CBI into the rampant illegal/ unauthorized construction at the protected monument i.e. Tughlakabad fort.*

b. Direct the respondent no. 1 to 5 to initiate action against the respondent nos. 6 and 7 for such encroachment, under the supervision of this Hon'ble Court.

c. Direct the concerned Police Station i.e. Police Station Govind Puri to provide protection to the petitioner and his family and take necessary actions for the well being of the petitioner and his family under the supervision of this Hon'ble Court.

d. Issuance of a Writ of Mandamus to the respondents to demolish the illegal construction and encroached area and forthwith stop the illegal construction/encroachment in the protected area of Tughlakabad Fort.

e. Issue such other writ, direction or order, which this Hon'ble court may deem fit and proper under the facts and circumstances of the case."

2. It is alleged by the learned counsel for the petitioner that there is inaction on the part of the concerned Authorities to prevent and to remove the illegal / unauthorized construction being carried out in the vicinity of Tughlakabad Fort, which is a protected monument under the Ancient Monuments and Archaeological Sites and Remains Act, 1958. It is contended that Section 20A of the said Act provides that every area, beginning at the limit of the protected area / monument, as the case may be, and extending to a distance of 100 meters in all directions shall be the prohibited area and in violation of the said provision there is rampant construction in the prohibited area.

3. In view of the above contentions, we deem it appropriate to direct the concerned Respondent Authority to decide the status of the alleged unauthorized construction in accordance with law, more particularly the provisions of the Ancient Monuments and Archaeological Sites and

Remains Act, 1958 and Article 49 of the Constitution of India, after giving adequate opportunity of being heard to the concerned parties. Needless to state that in case it is found by the concerned Authority that there is any illegal construction in the area in question in the present petition, necessary steps shall be taken to remove / demolish the same, in accordance with law. Delhi Police shall give adequate and necessary police force and protection in case the construction is illegal and action is initiated for its removal. This exercise shall be completed as early as possible and practicable in accordance with law.

4. With the aforesaid observation, this writ petition is hereby disposed of.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 8, 2021
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