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

% *Decided on: 1st March, 2021*

+ W.P.(C) 2712/2021

PREM PAL SINGH

..... Petitioner

Through: Mr.Jaspal Singh, Adv. with
Ms.Soumyashree Misra, Adv.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Rishabh Sahu, Adv. for R-1/UOI.
Mr.Anjum Javed, ASC with Mr.Devendra Kumar,
Mr.Faran Ahmed, Ms.Priti, Adv. for R-2,6 to 8.
Mr.Dhanesh Relan, Adv. with Mr.Shrinivas Soni,
Mr.Paritosh Dhawan, Adv. for SDMC.
Mr.Sunil Fernandes, Standing Counsel with
Mr.Shubham Sharma, Adv. for R-4/BSES-RPL.
Ms.Sangeeta Bharti, Standing Counsel for DJB.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

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

Proceedings in the matter have been conducted through video conferencing.

C.M.No.8087/2021 (exemptions)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) No.2712/2021

1. This so called public interest litigation has been preferred with the following prayers:-

- “(A) Issue of a writ, order or direction in the nature of *mandamus* or any other similar writ, order or direction directing Respondents No. 1, 2 and 3 to take immediate and stern steps, measures and efforts to make sure that no illegal construction is taking place in Freedom Fighter Colony of Neb Sarai Area in South Delhi;
- (B) Issue of a writ, order or direction in the nature of *mandamus* or any other similar writ, order or direction, directing Respondents No. 4 and 5 to immediately restrain and refrain from providing electricity and water connection to illegally constructed properties;
- (C) Issue a writ, order or direction in the nature of *mandamus* or any other similar writ, order or direction, directing Respondents No. 6, 7 and 8 to take effective steps to ensure that no illegal construction activity is carried out within their jurisdiction; and
- (D) Pass any other orders or directions, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. Learned counsel appearing for the petitioner, relying on the photographs annexed as Annexure P-2 to the writ petition, submits that the construction in question is illegal. It is further submitted by the learned counsel for the petitioner that the construction activity carried out using construction material such as TMT bars (iron bars) and sand etc. lying on road causes nuisance & also results in difficulty in car parking etc.

3. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, no specific submission whether orally or through pleadings in the writ petition has been placed before this court which highlights the exact illegality or otherwise of the construction in question. No plans of the building & details of the plot in question which is

under construction has been filed on record. Moreover, nowhere it has been stated about the area of the plot in question or whether construction being carried out on the said plot has been approved by the concerned respondent authorities or not.

4. Merely, because the construction material is on road during the construction activity does not mean that the construction in question is illegal. **There cannot be a presumption of illegality of a construction.** It ought to be kept in mind that the legality or otherwise of the construction cannot be proved on the basis of the photographs but can only be decided on the basis of cogent and convincing evidences placed before the Trial Court.

5. We, therefore, see no reason to entertain this so called public interest litigation. In fact, this is a blackmailing type of litigation.

6. In view of the aforesaid, this writ petition dismissed with costs of Rs.25,000/- to be deposited with the Member Secretary, Delhi Legal Services Authority within a period of four weeks from today. The amount deposited will be used by Member Secretary, DLSA, for "Access to Justice" programmes.

7. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

CHIEF JUSTICE

JASMEET SINGH, J

MARCH 01, 2021/ 'anb'

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