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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 3rd February, 2021

+ **CONT.CAS(C) 504/2020**

SH ANIL RATHEE Petitioner

Through: Mr. Sibbo Shankar Mishra, Advocate.
versus

N S MOR & ORS. Respondents

Through: Mr. Manashwy Jha, Advocate for R-2.
Mr. Rajiv Bansal, Sr. Advocate with
Ms. Asiya Khan, Ms. Nandita Sharma
& Ms. Jasmeet Kaur Ajimal & Mr.
Prateek Sharma, Advocates for DDA
(M-9971644936)
PSI Suman Lata, PS Vasant Kunj

AND

+ **W.P.(C) 5366/2020 & CM APPL. 32109/2020**

ANIL RATHEE Petitioner

Through: Mr. Sibbo Shankar Mishra, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY & ANR. Respondents

Through: Mr. Rajiv Bansal, Sr. Advocate with
Ms. Asiya Khan & Mr. Prateek Sharma,
Advocates for DDA.
PSI Suman Lata, PS Vasant Kunj.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

CM APPL. 22054/2020(for exemption) in CONT.CAS(C) 504/2020

CM APPL.19323/2020(for exemption) in W.P.(C) 5366/2020

2. Allowed, subject to all just exceptions. Applications are disposed of.

CM APPL. 19322/2020 in WP (C) 5366/2020 (for exemption from filing court fee)

3. This is an application seeking exemption from filing court fee and duly

attested affidavits. Binding the deponent of the affidavit to the contents of the application, the exemption is granted. Insofar as court fee is concerned, the same be deposited within one week.

4. Application is disposed of. Registry to submit a report in case the court fees is not filed after a month.

CONT.CAS(C) 504/2020

W.P.(C) 5366/2020 & CM APPL. 32109/2020 (for impleadment)

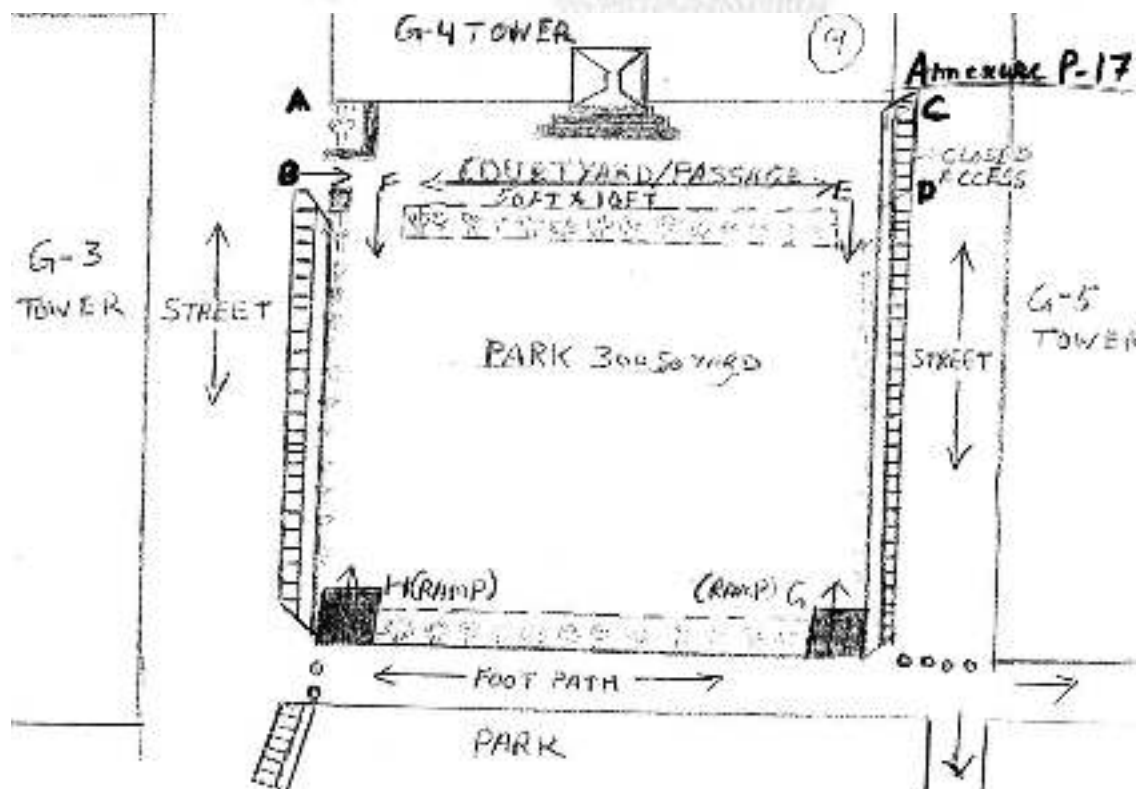
5. The brief background to these cases is that W.P.(C) 5366/2020 was initially filed seeking a direction for dismantling the unlawful encroachment by the Respondent No.2 in the public park and the common area of 300 sq. yards behind Ganga Complex, D-6, Vasant Kunj (*hereinafter*, “*subject premises*”). Vide order dated 18th August, 2020, this Court had directed Delhi Development Authority (*hereinafter*, “*DDA*”) to conduct a site inspection and submit a status report along with the photographs of the subject premises, as well as to ensure that proper ingress and egress to the green area behind the subject premises is available to all residents of the Apartment block. This court had, vide the same very order, directed the Respondent DDA to ensure that if there is any encroachment on the subject premises, the same shall immediately be removed.

6. Pursuant to the said order, status report was submitted by the DDA. Parallely, a contempt petition also came to be filed being CONT.CAS(C) 504/2020. The allegation in the contempt petition is that Respondents No.1 to 3 have, by their conduct, violated the order dated 18th August, 2020 and accordingly contempt action ought to be taken. Vide order dated 13th October, 2020, after perusing the photographs, this Court was not convinced that the green area was made fully accessible to the residents in Vasant Kunj and

further directions were issued. At that stage, it was also noticed that FIR No.557/2020 was lodged by Respondent No.2 against the Petitioner. Thereafter, the parties were directed to join the proceedings through video conferencing on the next date.

7. DDA, on 9th December, 2020, informed the Court that sufficient steps have been taken to ensure that the public has open access to the park in question. Status report was also filed. In the meantime, the Petitioner also lodged a criminal complaint against the Respondents.

8. The Court has perused the various photographs and the sketch placed on record. The Petitioner has also placed a sketch on record, which has been filed with CM APPL. 32109/2020. The same is set out below:



9. While there is no doubt that sufficient steps have been taken to make the park accessible, in the sketch filed by the Petitioner, an open passage has been created for ingress and egress for the general public between point A and B. The DDA shall ensure that the ingress and egress even at point C and D is free and is unimpeded. Insofar as the exit points C and D are concerned, it is submitted that there is a small brick wall which has been erected to ensure that there is no unnecessary interference in the park. The status report which has been filed by DDA has been perused by the Court and the Court is satisfied that sufficient steps have been taken to ensure that the park is made accessible to the public in general. The small brick wall at points C and D, can be retained, so long as there is no barbed wire that is installed.

10. The parties have joined the proceedings along with their counsels today. They submit that they agree not to press the criminal complaints which have been filed against each other.

11. Considering that both the criminal complaints which were filed were due to disputes arising between neighbours, and both of them agree not to press the said complaints, FIR No. 557/2020 is quashed. Insofar as the other criminal complaint filed by the Petitioner is concerned, the same shall be closed and the said complaint shall be deemed to be withdrawn.

12. PSI Suman Lata, the IO of this case has appeared and has been apprised of the above order.

13. The contempt case as well as the writ petition, along with all pending applications are disposed of in the above terms.

PRATHIBA M. SINGH, J

FEBRUARY 3, 2021

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