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

% Judgment delivered on: 02.09.2021

+ W.P.(C) 9470/2021 & CM APPLN. 29387-88/2021

SHIV KUMAR

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION & ANR.....Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Ranjit Sharma, Advocate

For the Respondent: Ms. Saroj Bidawat, Advocate for SDMC

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks a direction against the respondent to take action against the alleged illegal construction being raised on property no. G-9/4, Gali No. 9, Ratia Marg, Sangam Vihar, New Delhi.
3. It is conceded by learned counsel for the petitioner that petitioner has no connection with the property and is also not a neighbour of the subject property.
4. He concedes that neither his light, air nor ingress - egress is affected by the alleged illegal construction.
5. A Petition under article 226 of the Constitution of India would lie for

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enforcement of the fundamental rights or other legal rights. Petitioner, admittedly, does not have any connection with the subject property and has failed to show as to which legal right of the petitioner is affected by the alleged illegal construction.

6. It is submitted that by learned counsel for the petitioner that son of respondent no. 2 had filed a petition against several illegally constructed properties in the vicinity and Corporation is taking action on his complaint.

7. This petition seems to be a retaliatory petition filed by the petitioner as a counter blast to take action against respondent no. 2, whose son is alleged to have been instrumental in targeting several unauthorized constructions.

8. This petition is clearly a motivated petition and not a petition filed for enforcement of any fundamental or legal right.

9. A coordinate bench of this court by order dated 16.10.2017 in RSA 243/2017 titled *Rajendra Motwani & Anr Versus MCD & Ors* has held that *“that an illegal construction in itself does not give any legal right to a neighbor. An illegal construction always no doubt gives locus standi to the local municipal authorities to seek removal of the illegal construction, but, a right of a neighbor only arises if the legal rights of light and air or any other legal right is affected by virtue of the illegal construction of the neighbor.”*

10. As noticed herein above, admittedly Petitioner’s light, air and legal

rights are not affected. He is not even a neighbour. Petitioner has selectively filed this petition only against the property of Respondent No. 2 and the reason given by learned counsel is that the son of Respondent No. 2 has filed a petition on which action has been taken by the Corporation against several properties.

11. Since petitioner has failed to show any connection with the subject property and has further failed to show that any fundamental or legal right of the petitioner is violated and the petition is admittedly a motivated petition, I am not inclined to exercise powers under Article 226 of the Constitution of India.

12. The petition is accordingly dismissed.

13. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 2, 2021/‘rs’

Though the judgment was orally pronounced in open court on 02.09.2021, the judgment has been corrected and released on 09.09.2021