

\$~26

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

% *Date of Decision: 22th September, 2021*

+ **W.P.(C) 10707/2021**

VAREES AHMAD

..... Petitioner

Through: **Mr. Arun Kumar Verma, Advocate**

versus

THE GOVT NCT OF DELHI & ORS.

..... Respondents

Through **Mr. Tushar Sannu, Standing Counsel**
for SDMC with **Ms. Ankita Bhadouriya and**
Mr. Shubham Gupta, Advocates for SDMC
Ms. Prabhsahay Kaur, Advocate for R-7
Mr. Satish Kumar Tripathi, Advocate for R-8

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

D.N. PATEL, CHIEF JUSTICE(ORAL)

CM APPL. 33508/2021 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 10707/2021 & CM APPL. 33507/2021 (Stay)

1. This public interest litigation has been preferred for the following prayers:

i) A Writ be issued in the nature of Mandamus directing the respondent no. 1 to 7 to remove/ demolish the illegal and unauthorized construction and encroachment at property bearing no. 536 (Old no. 1 75) Khasra no. 1 75, Gali no. 18,

Zakir Nagar, Okhla, New Delhi-110025, (land measuring 275 Sq. yds.).

ii) To issue the directions to the respondent no. 1 to 7 to immediately stop the illegal further encroachment if any.

iii) To issue a writ of prohibition against the respondent no. 8 restraining them from raising further illegal and unauthorized construction and illegal encroachment.

iv) Pass such other order(s) and further order(s) as it deems fit in the facts and circumstances of the case.

2. We have heard learned counsel appearing for the Petitioner.

3. It is submitted by the Petitioner that the illegal and unauthorised construction at Khasra No. 175 Gali No. 18, Zakir Nagar, Okhla, New Delhi-110025 requires demolition. Learned counsel appearing for the Petitioner relied upon various Annexures and photographs and submitted that the construction in question is illegal and unauthorised.

4. We have heard learned counsel for South Delhi Municipal Corporation (SDMC), who has submitted that this is not a public interest litigation at all. As the litigation has been preferred for only one property and the interests of the petitioner himself are in question.

5. Nonetheless on merits of the matter, it is fairly submitted by learned counsel for Respondents No. 3 and 4/SDMC that the property in question is already booked by SDMC for taking action against the illegality in the construction. Moreover, SDMC has requested the concerned Authority for disconnection of water as well as electricity. It is further submitted by learned counsel for SDMC that the demolition process has also been carried

out in the month of September, 2021 for the property in question. It is reiterated by learned counsel for SDMC that even though the respondents have already taken action in advance before getting a copy of this petition. The fact remains that this type of petition cannot be allowed as a public interest litigation because individual building is targeted by the Petitioner for the reasons best known to the Petitioner.

6. Learned counsel for Respondent No. 8 is present on advance service and has submitted that there is no illegality in the construction and the same is absolutely in consonance with the provisions of law.

7. Having heard learned counsel for the parties and looking to the facts and circumstances of the case and the prayer in the petition, as stated hereinabove, this petition is not a public interest litigation at all. There are allegations only against one property belonging to Respondent No. 8. Separate litigation can be preferred in accordance with law by the Petitioner, if the Petitioner is so advised. Nonetheless, SDMC, has already started taking action with respect to the construction in question as stated hereinabove.

8. In view of these facts, we see no reason to entertain the present writ petition and the same along with pending application is therefore dismissed.

CHIEF JUSTICE

AMIT BANSAL, J

SEPTEMBER 22, 2021/rd