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

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Date of Decision: 17th January, 2022

+ W.P.(C) 326/2022

ANTI CORRUPTION CRIME AND HUMAN PROTECTION
THROUGH ITS PRESIDENT Petitioner
Through Mr. R. C. Pathak, Advocate.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents
Through Mr. Rishikesh Kumar, Additional
Standing Counsel for Respondent
Nos. 1 to 5.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

Proceedings have been conducted through video conferencing.

W.P.(C) 326/2022 & CM APPL. 930/2022 (Stay)

1. Present Public Interest Litigation has been preferred seeking the following reliefs:-

“(a) take necessary / appropriate action to demolish the existing illegal and unlawful unauthorized construction on House No.110, Gali No.17, Near Umar Masjid, Jakir Nagar, Okhla, New Delhi- 110025 ;



(b) restrain the respondent No. 6 from creating third Party interest by selling, alienating the abovesaid illegal construction to prospected purchasers,

(c) take necessary / appropriate action against the respondent No. 6 for violation of the public policy and by laws adopted by the Government authority”

2. We have heard learned counsel appearing on behalf of the Petitioner and have looked into the facts and circumstances of the case. Petitioner, *inter alia*, seeks a direction to the Respondents No.1 to 5 to demolish the alleged illegal and unauthorized construction in House bearing No.110, Gali No.17, Near Umar Masjid, Jakir Nagar, Okhla, New Delhi-110025.

3. It needs no gainsaying that the legality or otherwise of a construction cannot be established/proved merely on the basis of documents and photographs, annexed to a writ petition. Cogent evidence is required for the Court to appreciate the illegality and extent of illegal and unauthorized construction, which cannot be done in a writ jurisdiction. It is a settled law that disputed questions of fact or appreciation of evidence is beyond the scope of a writ court exercising jurisdiction in a judicial review. Merely by looking at the documents annexed by the Petitioner to the writ petition, it is not possible for this Court to arrive at any conclusion on the status of construction in question. We, therefore, see no reason to entertain the present petition.

4. Nonetheless, looking to the fact that the Petitioner has brought to the notice of this Court and flagged the issue of an alleged unauthorized construction, we hereby direct the concerned Respondents to look into the grievances ventilated by the Petitioner in the representation dated



22.11.2021 (Annexure P-1 to the memo of the writ petition) and take a decision thereon, in accordance with law, rules, regulations and Government policies, and after giving adequate opportunity of being heard, to the owners/occupiers of the premises in question.

5. Needless to state that if the construction in question is found to be illegal / unauthorized, the same shall be demolished by the concerned Respondents, in accordance with law. This exercise shall be completed as expeditiously as possible.

6. With these observations and directions, the writ petition along with the pending application is hereby disposed of.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 17, 2022/st