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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12th December, 2023

+ W.P.(C) 17655/2022, CM APPLs. 64117/2023, 64118/2023, 64119/2023, 64120/2023, 64121/2023 & REVIEW PET. 341/2023

MOHD. KASHIF

..... Petitioner

Through: Mr. Vinod Malhotra and Ms. Jasleen
Kaur, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI)
AND ORS.

..... Respondents

Through: Mr. Abhay Pratap Singh Adv. (M.
8630526191)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPLs. 64117/2023, 64118/2023, 64119/2023, 64120/2023, 64121/2023 & REVIEW PET. 341/2023

2. The present review petition under Section 114 CPC read with Order 47 Rule 1 CPC has been filed by the Applicant/Petitioner-Mohd. Kashif seeking reconsideration of the order dated 21st February, 2023.

3. The Applicant/Petitioner filed the present petition seeking action to be taken against the alleged unauthorized construction and running of a guest house by the Respondent No.5 - Mohd. Ashfaq under the name '*M/s Al Ashfaq Guest House*' at '*Property No.955, Gali Shyam Lal, Jama Masjid, Delhi-110006*' (hereinafter, '*subject property*').



4. The Applicant/Petitioner urged that he was in the lawful occupation of the shop situated on the ground floor of the subject property, and that the Respondent No.5, in collusion with the statutory authorities such as MCD, GNCTD and police, raised unauthorized construction and was running a guest house.

5. The Applicant/Petitioner claimed to have made representations on 13th April, 2022 against the said illegal activity. Since no action was taken, hence, the present petition was filed. Mr. Ahmed, ld. counsel for the Petitioner submitted that the Petitioner was living in the vicinity and therefore, was affected by the activities of the guest house.

6. Vide order dated 21st February, 2023, this Court dismissed the present petition in the following terms:

“3. On behalf of the MCD, it is submitted that the photographs itself would show that there is no unauthorized construction being carried out. Further, Mr. Abhay Pratap Singh, ld. Counsel for MCD submits that the guest house is duly licensed till 31st March, 2024. This position is confirmed by ld. counsel appearing for the GNCTD.

4. Mr. Nagar, Ld. Counsel for Respondent No.5 submits that the entire petition itself is mala fide, inasmuch as the Petitioner is illegally squatting in Property No.956 qua which eviction proceedings have been initiated by the Respondent No.5 against the Petitioner. He submits that the matter is pending before the Additional Rent Controller (‘ARC’) and today is the date for final pronouncement of the order in that matter.

5. On a query from the Court, as to why the Petitioner has not disclosed the eviction proceedings, ld. Counsel for the Petitioner submits that since the property is different, the need for disclosure of the said dispute was not felt.



6. The Court has considered the matter. The scope of this writ petition is in respect of the Respondent No.5's property and the guest house being run. The governmental authorities have confirmed that there is no unauthorized construction, which is currently taking place. The guest house is duly licensed. Hence, the directions sought cannot be passed in this matter.

Further, it is also a cause for concern that the present petition appears to have been a vexatious attempt by the Petitioner to cause unnecessary harassment to Respondent No.5. The Petitioner has nowhere disclosed the proceedings for eviction, which were pending between the Petitioner and the Respondent No.5. A fair disclosure of the same was required in these circumstances.

7. Accordingly, the writ petition is dismissed with costs of Rs.25,000/- to be paid to the Respondent No.5. The same shall be paid within a period of 4 weeks failing which the Respondent No.5 is free to take steps to recover the same.

8. The petition is dismissed. Pending application is also disposed of."

7. The Applicant/Petitioner has filed a review petition against the above order. The broad grounds for review in the review petition are as follows:

- That the Respondents incorrectly informed that the Applicant/Petitioner was illegally squatting at the subject property. According to the Petitioner is, in fact, a legal tenant at the subject property. Despite an eviction order, the Applicant/Petitioner remains legally in possession due to a six-month grace period granted under Section 14(7) of the Delhi Rent Control Act, 1958 and has filed for a review under Section 25B(9) of the Delhi Rent Control Act, 1958.



- That the subject property has been subjected to illegal construction of six floors by Respondent No.5 and his brothers without proper approvals, allegedly with MCD's involvement.

8. The submission of Mr. Malhotra, Id. Counsel appearing for the Applicant/Petitioner is that the DDA misled the Court while stating that there was no unauthorized construction on the subject property. He relies upon a notice of payment of demolition fees dated 12th June, 2023 issued to the Respondent No.5 placed on record.

9. A perusal of the order dated 21st February, 2023 reveals that it pertained to a dispute between the Petitioner and the Respondent No.5, who had their own issues regarding the subject property, claimed to be rented by the Applicant/Petitioner. This is evident from the paragraph 4 of the order dated 21st February, 2023.

10. It is submitted by Id. Counsel for the Respondent No.5 that the Id. Addl. Rent Controller-I ('ARC') has, in fact, rejected the leave to defend application/petition of the Petitioner vide order dated 29th April, 2023. The Petitioner has availed of other remedies in respect of the said order.

11. The issue in this case involves a petition in which the Petitioner prays that certain demolition proceedings ought to have been initiated against unauthorized construction in the subject property.

12. Further, it is clear from the facts of the petition that the Petitioner and the Respondent No.5 are engaged in various personal disputes in respect of the subject property. Such private disputes between parties cannot be given public colour in this manner in a writ petition. The writ petition has rightly been dismissed by the Court.



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13. Delay of 261 days is not liable to be condoned. The present review petition is dismissed. All pending applications are disposed of.
14. Cost shall be deposited by the Petitioner within a period of four weeks.

PRATHIBA M. SINGH
JUDGE

DECEMBER 12, 2023
Scc/dn