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

+ **W.P.(C) 830/2022, CM APPLs. 2341/2022 & 55932/2023**

VISHNU CHOUDHARY

..... Petitioner

Through: Mr. Rishi Sood and Mr. Prafull Singh
Chander, Advocates.

versus

UNIION OF INDIA & ORS.

..... Respondents

Through: Mr. Satya Ranjan Swain, SPC with
Mr. Kautilya Birat, Advocate for R-1.
Mr. Sameer Vashisht, ASC with
Ms. Harshita Nathrani, Advocate for
R-2 and R-6 to 10.
Mr. Adarsh Chamoli, Advocate for
R-3.
Mr. Mukesh Gupta, Standing Counsel
with Mr. Ajjay Aroraa, Mr. Kapil
Dutta, Mr. Vansh Luthra and
Ms. Simran Arora, Advocates for
R-4/MCD.

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

09.04.2024

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1. The present writ petition is filed under Article 226 of the Constitution for restraining the respondents from raising the unauthorised construction over the land, subject matter of the present petition and also to remove the trees thereon. The petitioner has made the following prayers:-

a) Issue Writ of Prohibitory thereby restraining the respondents to continue with raising the unauthorized construction and



forming the new colonies on the land of petitioner along with common land of this village.

b) Issue Writ Petition(Civil) under Article 226 of the Constitution of India for Writ of Mandamus for directing the respondents to restrain the new constructions and issue the direction for demolition the previous new construction from the dated of order dated 22.3.2017.

c) Award cost to the petitioner;

d) Pass any other orders/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The petitioner claimed to be a common shareholder in the land situated in revenue estate of village Aya Nagar, Tehsil Mehrauli, New Delhi falling in khasra nos. 1505, 1534, 1535/1 and 1539/2 by way of legal heirship of late Chhotu and Lakhhi Chand, who were the real brothers. The petitioner has submitted a complaint to the respondent no. 5 regarding the respondents no. 2 and 3 who have been removing the trees from the common land and were also raising the unauthorised construction over the said land. The petitioner had also given subsequent reminders dated 13.12.2021 and 21.12.2021 in respect of raising the unauthorised construction over the land, subject matter of the present petition and removal of trees thereon. The petitioner claimed to have done lot of efforts for restraining the unauthorised construction by the respondent no. 3 on the said land as well as removal of trees thereon. The petitioner being aggrieved, filed the present petition.

3. Mr. Adarsh Chamoli, Advocate appearing on behalf of the respondent no. 3 stated that the respondent no. 3 is neither the owner nor having any



interest over the land, subject matter of the present petition. It is further stated that the respondent no. 3 has never raised any construction whatsoever over the land in question at any point of time. It is further stated that the respondent no. 3 never intended or intend to raise any construction over the land, subject matter of the present petition as the respondent no. 3 does not have any right, title or interest over the land in question.

4. The counsel for the respondent no. 4/SDMC (now MCD) stated that whatever construction was found to be raised over the land, subject matter of the present petition has already been demolished and to that effect, submitted an affidavit of B.S. Gupta, Ex. Engineer (Bldg.), South Zone, Municipal Corporation of Delhi, Green Park, New Delhi in continuation of previous affidavit and status reports wherein it is categorically stated that the Building Department of the respondent no. 4 has already removed the unauthorised construction in the various lanes being part of the khasra nos. 1505, 1534, 1535/1 and 1539/2. At present, there is no unauthorised construction over the land, which is subject matter of the present petition. It is further assured that the necessary steps would be taken in case any unauthorised construction is found to be raised over the land as well as the preventive action shall also be taken from raising any unauthorised construction over the land, subject matter of the present petition. The said affidavit is also accompanying certain photographs which demonstrate that the construction over the land in portion has already been razed/demolished.

5. In view of the submissions made on behalf of respective counsel for the respondents no. 3 and 4, nothing survives in the present petition. Accordingly, the present petition along with pending applications, stands disposed of. However, the petitioner shall be at liberty to initiate appropriate



legal proceedings in case of altered circumstances or being aggrieved by further alleged unauthorised construction and removal of trees.

DR. SUDHIR KUMAR JAIN, J

APRIL 9, 2024

N/AM