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

+ W.P.(C) 1864/2024, CM APPL. 7790/2024 & CM APPL. 7791/2024

HIMANSHU DAMLE & ANR. Petitioners

Through: Mr. Satyajit Sarna and Ms. Reaa
Mehta, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ORS.

..... Respondent

Through: Mr. Sanjay Katyal and Ms. Shobhana
Takiar standing counsels DDA for
Respondent No. 2 with Mr. Kuljeet
Singh and Mr. Nihal Singh,
Advocates and Mr. Rahul, Legal
Assistant, DDA
Mr. Apoorv Kurup, CGSC with Mr.
Akhil Hasija, Advocate for R-2

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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08.02.2024

1. Present public interest petition has been filed seeking issuance of directions to the Respondent Nos. 1 and 2 to desist from demolishing/removing the Ashiq Allah Dargah, including the chillagah of Baba Farid and other surrounding historical monuments in Mehrauli or Sanjay Van. The Petitioners further pray for issuance of directions to the Respondent No. 3 to take steps to protect and preserve the monuments and structures at Mehrauli and Sanjay Van.



2. Learned counsel for the Petitioners states that the Respondent No. 1 has demolished adjacent structures in Mehrauli, including the Akhunji Masjid and Haji Rozbih Dargah without issuance of prior public notice. He states that demolition of such old heritage structures in Mehrauli took place under the garb of removal of encroachments, despite such monuments being recorded in historical records.
3. He states that the area containing the Ashiq Allah Dargah has been barricaded by the police and public access has been restricted. He further states that the caretakers of the dargah have been removed from the premises, thus raising serious apprehension of its impending demolition by the Respondents.
4. He further states that Dargahs and surrounding monuments ought to be protected as they are of historical, artistic and archaeological interest. He further states that the sites in question have been noted in authoritative studies, thus eliminating any question of encroachments.
5. Learned counsel for the Respondents states that all structures and/or sites which have been declared by any statutory authority (be it Central or State) as a protected monument or as a national monument shall not be demolished. They further assure this Court that the demolition action in the concerned area shall be taken only in accordance with law.
6. Having heard learned counsel for the parties, this Court is of the view that undoubtedly life in its expanded horizons includes all that gives meaning to a man's life, including his culture and heritage and the protection of that heritage in its full measure.
7. However, this Court takes judicial notice of the fact that Delhi is one of the cities that are worst affected by pollution. No month passes when the



Air Quality Index ('AQI') does not cross the hazardous mark. According to Doctors, even lungs of young children are being adversely affected.

8. Consequently, this Court is of the view that right to health, right to breathe and right to heritage and culture have to be harmonised and balanced.

9. Admittedly, Mehrauli and Sanjay Van are marked as green/forest areas in the Master Plan. This Court is of the view that green areas are the lungs of the city and efforts have to be made by all statutory authorities to ensure that no illegal and unauthorised construction is carried out on this public land dedicated for public purpose.

10. This Court, with the assistance of the parties, has examined the photographs annexed with the writ petition. From some of the photographs placed on record, in particular at pages 37, 38 and 39, it is apparent that fresh construction has been carried out in the immediate past using blue, green, brown and white tiles which were not available in the distant past. From the photographs, it is apparent that some of the structures located in the midst of thick forest have been renovated recently and occupied by certain families.

11. This Court is further of the view that the apprehension of mindless demolition expressed by the Petitioners is misplaced as according to the Supreme Court judgment, religious structures such as those mentioned in the writ petition can be demolished only after taking a prior approval from the Religious Committee which is headed by the Lieutenant Governor of Delhi. Thus, there is adequate safeguard inbuilt into the system.

12. This Court is of the view that the undertaking given by the learned counsel for the Respondents that no protected monument or national



monument declared either by the Central or State authority shall be demolished is fair, reasonable and strikes a balance between the competing claims/interest.

13. Consequently, the statements/undertakings/assurances given by the learned counsel for the Respondents are accepted by this Court and the Respondents are held bound by the same.

14. Recording the aforesaid statements/undertakings/assurances, present writ petition and pending applications are disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 8, 2024/msh