$~55, 57, 58, 59, 60, 61, 62

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

\+ CONT.CAS(C) 365/2024

(55) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.

\+ CONT.CAS(C) 366/2024

(57) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.

\+ CONT.CAS(C) 367/2024

(58) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.
Mr. Manish Tanwar and Mr. Abhinav Sharma, Advs. for R-3 and 4.

\+ CONT.CAS(C) 368/2024

(59) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.

Mr. Ajay Digpaul, CGSC and Ms. Ishita Pathak, Ms. Akanksha, Advs. for UOI.

Mr. Manish Tanwar and Mr. Abhinav Sharma, Advs. for R-3 and 4.

\+ CONT.CAS(C) 369/2024

(60) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.

\+ CONT.CAS(C) 370/2024

(61) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.

Mr. Manish Tanwar and Mr. Abhinav Sharma, Advs. for R-3 and 4.

+ CONT.CAS(C) 371/2024

(62) PARVEEN KUMAR ..... Petitioner

Through: In person.

versus

KAPIL GOYAL & ORS. ..... Respondents

Through: Ms. Avnish Ahlawat, Mr. Tarveen Singh, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advs. Delhi Cantonment Board.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

<u>O R D E R</u>

% **15.05.2024**

1. The instant petitions have been filed by the petitioner alleging wilful disobedience of the order dated 08.07.2017 of Ld. MM-03, South-West District, Dwarka Court in CC Nos.10835/2017, 10961/2017, 1960/2017, 25122/2017, 11907/2017 (1137/4), 1060/4 of 2017 and 10959/2017 respectively.

2. The aforesaid orders have been passed under Section 248 of the Cantonments Act, 2006.

3. The petitioner, who appears in person, submits that once the delinquent party has pleaded guilty under Section 247 of the Cantonments Act, 2006, it is not permissible for such a party to file an appeal against an order passed under Section 248 of the Cantonments Act, 2006.

4. Attention is drawn to the fact that vide order dated 08.07.2017, in CC Nos.10835/2017, 10961/2017, 1960/2017, 25122/2017, 11907/2017 (1137/4), 1060/4 of 2017 and 10959/2017, the respondent(s)/accused persons had pleaded guilty.

5. It is submitted that having pleaded guilty in proceedings under Section 247, the very act of filing an appeal under Section 340 of the Cantonment Act, 2006 qua proceedings under Section 247, results in wilful disobedience of the order passed under Section 248 of the Cantonment Act, 2006.

6. The aforesaid legal issue, is also stated to have been raised by the petitioner in W.P.(C) 1564/2018, which is pending consideration.

7. Vide order dated 22.08.2023, passed in the said writ petition, the Delhi Cantonment Board has been directed to file a status report with regard to the allegations in the writ petition, particularly with regard to the alleged unauthorized construction raised by the private respondents.

8. The various contentions raised by the petitioner, particularly with regard to the subsistence of unauthorized construction and the necessity of taking action with regard thereto are liable to be adjudicated in the writ petition filed by the petitioner. As noticed hereinabove, the status report shall be directed to be filed therein by the Delhi Cantonment Board.

9. Needless to say, the prayers made by the petitioner herein seeking requisite action against the unauthorized construction, especially in the light of the order/s passed under Section 248, shall be duly considered in accordance with law. However, for the purpose of the present contempt proceedings, the act on the part of the private respondents in availing their statutory remedies by filing appeals under Section 340 of the Cantonment Act, 2006 cannot be said to result in "contempt" or "wilful disobedience" of any directions passed by this court or by the concerned Metropolitan Magistrate, who disposed of the proceedings under Section 247.

10. There may be some merit in the contention of the petitioner that once

the concerned respondents have admitted their guilt under Section 247, any statutory appeal under Section 340, that may be filed against the order/s passed under Section 248, may be thoroughly misconceived. However, this is a legal issue that would necessarily be considered by the concerned appellate forum and/or by this court, while disposing of W.P.(C) 1564/2018; the same cannot occasion any action under the Contempt of Courts Act, 1971.

11. This court is unable to accept the contention that the mere act of filing such appeals by private respondents would tantamount to committing contempt of court.

12. Accordingly, the court finds no merit in the present contempt petitions; the same are accordingly, dismissed. However, all contentions of the petitioner with regard to conduct of the private respondents and/or the necessity to take urgent steps to remove the unauthorized construction, stated to have been raised by the private respondents, shall be duly considered while disposing of W.P.(C) 1564/2018.

SACHIN DATTA, J

MAY 15, 2024/cl