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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4206/2024**
JANGPURA EXTENSION RESIDENTS FORUM RWA

.....Petitioner

Through: Mr.Nipun Bhushan, Adv.

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD & ORS.

.....Respondents

Through: Mr.Ram Kumar and Mr.Sushil
Kumar, Advs for R-1.
Mr.Ajjay Arora, Mr.Kapil Dutta and
Mr.Vansh Luthra, Advs for MCD.
Mr.Siddhant Nath, SC for MCD.
Mr.Karn Bhardwaj., ASC with
Mr.Shubham Singh and Mr.Rajat
Gata., Advs for R-3.
SI Amit Kumar, PS H.N.Din.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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29.07.2024

CM APPL. 28456/2024

1. Heard.
2. The petitioner prays for the Court to initiate *suo motu* contempt against respondent no.2 for non-compliance with the order dated 20.03.2024 in W.P. (C) No. 4206 of 2024, wherein, respondent no. 2 was directed to abide by the following directions:-

“6. Learned counsel for MCD who appears on advance notice submits that requisite action in accordance with law shall be taken expeditiously



to remove any unauthorised occupant/s on public land as referred in the petition.

7. Further, it is submitted that immediate steps shall be taken to ensure restoration of amenities such as lights, toilets fixtures, walls with concertina wires in the Silver Oak Park and to ensure no illicit activities are carried on at Silver Oak Park at any time during day or night. Vigilance shall be exercised by MCD to ensure that the Silver Oak Park is maintained properly and no illicit activity is carried therefrom.

8. Respondent no.3/Delhi Police is directed to ensure proper patrolling at Silver Oak Park at all hours of day and night to ensure that no illicit activities are carried therefrom.”

3. Upon due consideration of the submissions presented in the instant application, the Court finds no compelling reason to initiate *suo motu* contempt proceedings against the respondent-MCD. The respondent-MCD has unambiguously delineated various measures in its Status Report, undertaken in compliance of the aforesaid directions. Consequently, the Court is not inclined to proceed with any *suo motu* contempt action against the respondent-MCD.

4. Accordingly, the instant application stands disposed of.

W.P.(C) 4206/2024

1. Learned counsel appearing for the petitioner seeks the Court to consider issuing a writ of continuing mandamus, thereby, ensuring ongoing judicial oversight of the measures undertaken by the respondent-MCD to guarantee that the residents of the petitioner association can live peacefully, and free from any disturbances or nuisances caused by third parties.

2. The respondent-MCD in its Status Report has stated under:-

"5. That considering the aforementioned relief as sought by the petitioner, so far as role of answering Respondent MCD is concerned, it is submitted that so as to ascertain the status of the alleged Jhuggis, a survey has been got conducted through area field staff of Maintenance Division-I of



Central Zone, MCD and on carrying out the inspection / survey it has been noticed that there are around 51 Jhuggis which have encroached upon MCD Nallah illegally and the same are not protected under any policy, hence, liable for removal action.

6. That considering the same, the Maintenance Division-I of Central Zone - MCD has fixed the necessary encroachment removal action programme for 20.06.2024 i.e. after expiry / withdrawal of Modal Code of Conduct which is enforced, which will be taken / carried out upon availability of police force.

7. That as regard other amenities as alleged in the petition, the status of the same is as follow:-

*a. The construction of toilet block in Silver Oak Park is in progress and the construction of the same will be completed shortly. The photographs showing the latest status of the same are annexed herewith as **Annexure - A (Colly)**.*

b. As regards, improvement of the Silver Oak Park in the shape of improvement of boundary wall, walk way, Horticulture Store and drain of Silver Oak Park near Jangpura Metro Station, the in-principle approval and allocation of budget has already been obtained and the tender in this regard will be called upon immediately after expiry / withdrawal of Modal Code of Conduct which is enforced.

*c. As regards, provision of lighting arrangement by way of poles for removal of dark spots at Silver Oak Park under Central Zone, as informed by Electrical Department, Central Zone of MCD, the necessary work has been taken up and the work has already been awarded vide dated 16/03/2024 and pursuant to the same 14 Nos. of Street Light Poles have already been installed in the park and the work is in progress. The copy of the work order as awarded is annexed herewith as **Annexure - B**.*

*d. So as to remove the Malba near the gate of Silver Oak Park, the department has already undertaken the necessary removal action. The photographs showing the removal action in this are annexed herewith as **Annexure - C (Colly)**.*

e. That the alleged sign board as pointed out by the petitioner in the petition is concerned, the sign board installed on the underpass has to be provided / installed by Delhi Development Authority (DDA) as the same underpass is under the jurisdiction of DDA. The installation of sign boards indicating the name of colony and directions shall be taken up by MCD after expiry/withdrawal of Modal Code of Conduct."



3. The Status Report of the respondent-MCD indicates that various requisite steps have already been taken to maintain the concerned place and to keep the said place free from encroachment. It is also submitted at the Bar that regular monitoring is also being done in order to prevent any further encroachment.

4. Notably, the petitioner has not placed on record any objections in the form of a rejoinder-affidavit with respect to the aforesaid steps taken by the respondent-MCD.

5. Bearing in mind the nature of the prayer made in the instant writ petition and in view of the steps taken by the respondent-MCD, this Court does not find any reason to keep the instant writ petition pending on its Board and directs the respondent-MCD to continue taking the aforesaid steps to maintain the place in question.

6. It is well-established that while the Court is vested with extraordinary jurisdiction under Article 226 of the Constitution of India, the essence of the remedy of continuing mandamus lies in eliminating the uncertainties of adjudication. This remedy empowers courts to supervise, superintend, and intervene to actualize specific socio-economic rights and rectify administrative non-compliance.

7. Examining the prevailing jurisprudence, the remedy of continuing mandamus is invoked exclusively in exceptional circumstances where persistent executive recalcitrance obstructs the delivery of justice. In such instances, judicial follow-up becomes imperative in accordance with the Court's constitutional and moral obligations to uphold the rule of law.



8. In the present case, the respondent-MCD has taken adequate actions and has demonstrated compliance through Status Report, to which the petitioner has not raised any objections. Therefore, the Court is of the considered opinion that the facts and circumstances of this case do not warrant the issuance of a continuing mandamus, as the respondent's conduct has remained within the scope of their statutory duties and in compliance with the directions of this Court.

9. Accordingly, the instant petition stands dismissed.

PURUSHAINdra KUMAR KAURAV, J

JULY 29, 2024/MJ