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

+ **W.P.(C) 8369/2022**

DEVENDER SINGH

.....Petitioner

Through: Mr. Ajay Khanna, Advocate

versus

SUB- DIVISIONAL MAGISTRATE AND ORSRespondents

Through: Ms. Sweety Singh, Advocate for R-4,
5 & 6 with S.I. Sachin Panwar, P.S.
Fatehpur Beri

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

25.11.2024

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1. The Petitioner has invoked Article 226 of the Constitution of India, being aggrieved by the illegal and unauthorised constructions, cutting of trees, construction of borewells and plotting of colonies and illegal colonisation work in Aya Nagar, more specifically in H-Block Khasra No. 1939 to 1952 and C-Block Phase-6, Aya Nagar, Delhi- 110047.

2. Taking note of the Petitioner's allegations against the Respondent Authorities, the Court *vide* order dated 3rd May, 2025, called upon the Respondents to file their status reports. Pursuant to the said directions, a joint status report has been filed by Respondents No. 4 to 6, delineating the steps undertaken by them on the Petitioner's complaint. The relevant portion of the joint status report reads as follows:

"2) That it is pertinent to mention that the role of Delhi Police is to inform the concerned authorities on receiving any information regarding unauthorised construction being taken place in the area.

3) That it is worth mentioning here that many other FIR No. 151/22,

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FIR No. 218/22, FIR No. 269/22, FIR No. 291/22, FIR No. 299/22, FIR No. 333/22, and FIR No. 430/22 u/s 188 IPC have also been registered at P.S. Fatehpur Beri regarding the illegal construction in H Block, Phase-6, Aya Nagar, New Delhi as per the Restraintment Order passed by the Sub Divisional Magistrate (SDM), Mehrauli. The intimation regarding the same was also given to the concerned authorities vide No. 845-849/RSHO/ PS Fatehpur Beri dt. 10.08.22, No. 744/R-SHO/PS Fatehpur Beri dt. 23.07.22, No. 30-734/R-SHO/PS Fatehpur Beri dt. 23.07.22, No. 1155-1159/R-SHO/PS Fatehpur Beri dt. 25.10.22. Apart from the above mentioned case FIR's, various other FIR's have already been registered at P.S. Fatehpur Beri regarding any unauthorised construction at Aya Nagar, New Delhi and the intimation regarding the same is also sent to concerned authorities for necessary action. The copies of the intimation sent to the concerned authority are attached herewith as Annexure R-1 (colly).

4) That a demolition program was also carried out by MCD Staff at the property in question at H Block, Phase-6, Aya Nagar as per GD No. 39A & 73A dt. 02.06.22, P.S. Fatehpur Beri in which the MCD Staff was assisted by local police staff. Copy of GD Entries attached as Annexure R-2(colly.)

5) That it is also pertinent to mention that petitioner Devender Singh is the Bad Character (B.C.) of P.S. Fatehpur Beri. The copy of proof of previous Involvement of Devender singh is attached herewith as Annexure R-3. It was found that he makes PCR Calls regarding unauthorised construction and when the Enquiry Officer (E.O.) reaches the spot and asks him to verify the place of occurrence, he never comes on the spot. Devender Singh had never produced any documents regarding his ownership at the property in question as well. A case vide FIR No. 80/22 u/s 188 IPC P.S. Fatehpur Beri was also registered against the petition Devender Singh for unauthorised construction. The copy of the FIR No.80/22 U/s 188 IPC against Devender Singh is attached herewith as Annexure R-4.”

3. From the above status report, it becomes clear that the Respondent Authorities are taking action pursuant to the Petitioner's complaint. Further, Respondent No. 2/ Deputy Conservator of Forest (South) has also filed their status report, indicating as follows:

“1. That the present Writ Petition has been filed by Sh. Devender Singh regarding unauthorized /illegal construction, cutting of trees in H- Block Khasra No. 1939- 1952, Phase-6, Aya Nagar, Delhi.

2. That upon receiving the complaint the officials of Forest Department inspected the area and found that total 14 trees has been cut at H Block



and C Block, upon inquiring from the locals it was verbally informed that the trees has been cut by Mr. AK Chaudhary along with Mr Akash Lohia and owner of house no. 353 Adarsh Enclave, Aya Nagar extension and based upon the inspection report dated 11.03.2022 a show cause notices bearing no. 312/TO(S)/TOC/2021-22 dated 11.03.2022, 03.08.2022, 28.07.2022 AND 3.11.2022 was issued to Mr. AK Chaudhary along with Mr Akash Lohia and owner of house no. 353 Adarsh Enclave, Aya Nagar extension. The copies of the inspection report alongwith photographs are annexed as Annexure-R-2/A (Colly..). The copy of show cause notices are annexed as Annexure-R-2/B (colly).

3. That in response to the show cause notices none of the parties appeared and it was informed to the messenger that Mr. AK Chaudhary along with Mr Akash Lohia and owner of house no. 353 Adarsh Enclave, Aya Nagar extension whom the notices were issued denied to receive the same, then the notices were sent through the forest guards. It is pertinent to mention that on 03.08.2022 upon receiving the notice Mr. Jaibir Singh was present on behalf of Mr. Akash Lohiya wherein he mentioned name of Mr. Sanjeet Kumar, Mr. Sanjay Chaudhary and Mr. Avtar Singh Chahal to be the offenders in this matter and he also mentioned that as his board was fixed at the site so some bystanders must have given the wrong information.

4. That based on the statement in order not to prejudice anyone, the answering respondent further issued the show cause notices to Mr. Sanjeet Kumar, Mr. Sanjay Chaudhary and Mr. Avtar Singh Chahal as their name was also mentioned in the complaint received by us from the petitioner herein.

5. That several notices were issued and no one appeared, therefore the office of answering respondent then sent the notices through the SHO as well but still no one appeared. It is pertinent to mention that the answering respondent is issuing notices in the capacity of a tree officer (a quasi-judicial authority).

6. It is submitted that the answering respondent has taken all the necessary steps to preserve the trees diligently and all the actions were taken as per law.

7. The undersigned is ready to abide by the direction/order passed by this Hon'ble court in the interest of justice."



Inspection Report

A complaint was received on 17.02.2022 vide diary no. 7551 regarding illegal cutting of trees in H-Block and C-Block, Adarsh Enclave, Aya Nagar Extension, New Delhi. An inspection was carried out on 11.03.2022.

During the inspection at H-block and C-block, Adarsh Enclave, Aya Nagar Extension, New Delhi it was found that 14 trees were cut in which 10 trees were cut in H-block and 4 trees were cut in C-block. Near the site of offence some boards were fixed with the name of AK Chaudhary, Akash Lohia Building Materials and Properties and on one of the board only address were mentioned as owner H. No. 353 Adarsh Enclave, Aya Nagar Extension, New Delhi. Bystanders were also investigated but none of them could tell anything about the offender/offenders.

Therefore, it's difficult to ascertain the exact offender but it's very evident that the offence has been committed under **Delhi Preservation of Trees Act, 1994**. As at the place of offence boards were fixed with the name AK Chaudhary, Akash Lohia Building Materials Properties and owner of H.No. 353 Adarsh Enclave, Aya Nagar Extension, New Delhi can be called upon for investigation by sending show cause notice.

Report is submitted for kind perusal and further action.

Anurag
11/3/2022
Anurag Sharma
(Inspecting Officer)

4. In light of these aforementioned status reports, the Court is of the opinion that no further directions are required to be passed as the Respondent Authorities are already examining the issues. Moreover, in case the Petitioner has any grievance regarding any unauthorised construction, the same must be urged before the Special Task Force in terms of the directions issued by the Division Bench of this Court in ***Devender v. GNCTD***¹ and ***Himanshu v. East Delhi Municipal Corporation and Anr.***²

¹ W.P.(C) 1807/2018, decided on 20th September, 2018.

² W.P.(C) 8104/2022, decided on 31st July, 2023.



5. In view of the foregoing, the present petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 25, 2024/ab