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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 700/2024 & CM APPL. 25507/2024, CM APPL. 25508/2024**

RAKESH TOMAR Petitioner
Through: Mr. Raj Balam Sharma, Mr. Sandeep Bhardwaj, Advocates
(M:7838358601)
Email:rajbalamsharmaadv@gmail.com
versus

SRI SUDHIR KUMAR DIRECTOR OF VIGILANCE NCT DELHI Respondent
Through: Mr. Karn Bhardwaj, ASC-GNCTD with Mr. Shubham Singh, Mr. Rajat Gaba, Advocates for R-1,2,3,6
(M:9818488194)
Email:kbhardwaj183@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
% **01.05.2024**

CM APPL. 25508/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.

CONT.CAS(C) 700/2024 & CM APPL. 25507/2024

3. The present contempt petition has been filed with the following prayers:

a) To quash the order dated 16.12.2019 Annexure P-64 in CR No. 4626 of 2017 state Vs Rakesh Tomar/ Accused petitioner charge framed against him and High court Delhi led to miscarriage of justice vide order dated 21.01.2020 Annexure P-4 in WP(CRL) No.170 of 2020 by Mr. Mehra standing counsel for respondent concealed design



of offence arose from false FIR No 2146 of 2014 state VS Rakesh Tomar/Accused /Petitioner liable to be quashed in the light of judgment passed under section 482 CRPC by supreme Court dated 29.01.2024 Annexure P-82 in SLP CRL.7273 /2819 Mamta Shailesh Chandra Vs State of Uttarakhand and others arose from judgment dated 04.07.2011 in the case of Joseph Salvaraj A Vs State of Gujrat and others and warrant dated 04.04.2024 Annexure P-81 in counter CT No.3184 of 2018 in the matter of Rakesh Tomar Vs Inspector Raman Lmba SHO mehrauli PS issued against Police in CT No. 3184 of 2018.

b) To pass order for removal of obstructions from subject properties Annexure P-29 by appointing Advocate commissioner to visit and measure the subject properties Annexure P-29 to ascertain the actual position for protection of possession rights of the petitioner/complainants vide supreme Court judgment dated 29.11.1968 Annexure P-30 relevant parts of complaint dated 22.09.2019 Annexure P-26 made intentionally disputable by unauthorized building constructions threatened the petitioner by corrupt public servants named in complaint dated 22.09.2019 Annexure P-26 dishonestly and intentionally getting possession fraudulently prepared false document for the purpose of cheating the petitioner.

c) To direct the CBI to register FIR against the corrupt public servants named in complaint dated 22.09.2019 Annexure P-26 and complaint dated 22.12.2022 Annexure P-21 engaged to illicit activities by criminal misconduct in illicit agreement with Yashdev Gupta /landmafia in five storied unauthorized buildings in Plot no- C and D near Banberi Jama masjid, mehrauli, new Delhi-30 seen in video dated 04.03.2019 Annexure P-61 voluntarily caused extortion for Rs 28 Lakh putting fear of grievous injuries to get possession of subject property Annexure P-29 possessed by the petitioner getting protection vide supreme Court Judgment dated 29.11.1968 Annexure P-30 and video dated 16.10.2020 Annexure P-62 dealing in purchase and sale of unauthorized buildings in disputed land intentionally saved by named public servants for their wrongful gains of Rs more than one thousand crore but dishonestly and intentionally shown DDA park in status report dated 15.12.2020 Annexure P- 9 in WP(Civil) No.11536 of 2019 posed him chairman , KR Monglam University not recognized reported on 31.07.2019 Annexure P- 63 by University Grant Commission, Govt. of India.

d) To direct the Enforcement Directorate to look into criminal offence of legalizing the profits from an illegal source by Yashdev Gupta



/landmafia chairman forged KR Monglam University reported on 31.07.2019 Annexure P-63 in unauthorized buildings in Plot No C land measuring 4,860 Sq yards and Plot No- D land measuring 6480 Sq yards aided and facilitated by named corrupt public servants in complaint dated 22.09.2019 Annexure P-26 and complaint dated 22.12.2022 Annexure P-21 engaged to benefit fraud for their wrongful gains intentionally causing injuries to the petitioner.

e) To initiate contempt proceedings against Sri Sudhir Kumar IAS /Director Vigilance NCT Delhi wilfully and deliberately disobeyed the orders of Delhi High Court concealed design of offence seen in video dated 04.03.2019 Annexure P-61 voluntarily caused extortion for Rs 28 Lakh putting fear of grievous injuries to get possession of subject property Annexure P-29 possessed by the petitioner getting protection vide supreme Court Judgment dated 29.11.1968 Annexure P-30 and video dated 16.10.2020 Annexure P-62 attached to list of document dated 29.08.2022 Annexure P-9 filed in WP(Crl) No. 1626 of 2022 and copy served to the contemnor/Director Vigilance NCT Delhi escaped from delegation of power not further delegated not permissible in law filing on 08.10.2022 Annexure P-6 and further dated 30.11.2023 Annexure P-8.

f) To pass any order orders as this Hon'ble High Court may deem fit and proper.

4. Learned counsel for the petitioner submits that a false case was lodged against the petitioner. He submits that various complaints were filed by the petitioner with the respondent, however, the same were not taken into account. He draws the attention of this Court to *Annexure P-51* and submits that this document was not taken into account by the respondent at the time of dealing with the complaints of the petitioner. *Annexure P-51*, as pointed out by learned counsel for petitioner, reads as under:

*“Revenue Department
Govt. of NCT of Delhi
5, Sham Nath Marg, Delhi-110054
Applied on Date 05/04/2018*

Acknowledgement Slip for appointment



<i>District: SOUTH</i>	<i>Sub- Registrar office: Sub registrar Hauz Khas Locality: Mehrauli</i>
<i>Your ID Number</i>	<i>915218003996</i>

Your e-stamp Number *IN-DL03115535462001Q*

Purpose of visit at SR office *Presentation of Sale Deed*

Details of first party: *Sh/Smt. VETETSO LASUH R/o
Nagaland, Mobile: 9612163878*

Details of second party: *Sh/Smt. TAMCHI KUSUK R/O
Arunachal Pradesh, Mobile:
9862917713.*

*Address of Property to be
Registered:* *Agricultural land bearing old
kh. No. 1608 to 1672 New Kh.
No. 1056 to 1168 Village
Mehrauli New Delhi.*

Date/ Time Allotted: *Date: 10/04/2018, Time Allotted: 14:00*

*Note: 1 You are requested to reach the sub registrar office reception
15 minutes before your appointment time otherwise your appointment
is liable to be cancelled and you are requested to come with copy of
this slip or keep above mentioned your ID Number.*

*2. The documents may be completed on the same day after 03:00 PM
to 05:00 PM. It is mandatory to collect documents within 03 days.*

*3. Appointment (date & time) taken for registration of documents in
any sub registrar office can be changed once till a day before the
appointment already taken (e.g. a person has taken appointment on
01st SEPT for 01st OCT at 10:30 AM, One can change the appointment
till 30th SEPT 12:00 mid night."*

5. Learned counsel for petitioner is also carrying a Compact Disk ("CD") with him to submit that the said CD contains a recording which shows that the land mafia was demanding a sum of ₹ 28,00,000/- from the petitioner. He submits that all these aspects have not been taken into account by the respondent.



6. Per contra, learned counsel for respondent submits that various complaints filed by the petitioner have been considered and orders have been passed therein. He further submits that prayers made in the present petition, are beyond the scope of the jurisdiction of this Court in the present proceedings. He, thus, submits that the present contempt petition would not be maintainable for the prayers as made therein.

7. Learned counsel for respondent has also drawn the attention of this Court to the Status Report filed by the respondent, which clearly shows that the complaint made by the petitioner has been considered and dealt with. He further submits that all the issues which are now being raised by the petitioner, have already been dealt with by a Coordinate Bench of this Court vide its order dated 14th February, 2024 passed in *W.P.(CRL) 1626/2022*. Learned counsel for respondent further submits that there are no orders, of which any non-compliance has been done.

8. At this stage, learned counsel for petitioner submits that there are orders issued by the Ministry of Home Affairs, wherein the Ministry of Home Affairs has directed the respondent to submit the Action Taken Report to the said Ministry with respect to complaints against the Delhi Development Authority (“DDA”), Municipal Corporation of Delhi (“MCD”) and Delhi Police, submitted by the petitioner.

9. I have heard learned counsel for the parties and have perused the record.

10. At the outset, this Court notes that the petitioner herein had earlier filed a case being *W.P. (CRL) 170/2020* titled as *Rakesh Tomar Vs The Chief Secretary NCT Delhi & ORS*, which was disposed of vide order dated 21st January, 2020, relevant portions of which, read as under:



“1. The petitioner has filed the present petition, inter alia, praying that directions be issued to respondents to show cause as to why a false FIR bearing no. 2146/2014 has been registered with PS Mehrauli . The petitioner also alleges that certain sale deeds have been forged. In addition, the petitioner states that he has filed a complaint dated 22.08.2019 against various officers, alleging that they are engaged in the activity of intentionally preparing false and incorrect records.

2. The petitioner also prays that the directions be issued to the respondents to initiate departmental proceedings against the officers named in the complaint.

3. Mr Mehra, learned Standing Counsel appearing for the respondents points out that a chargesheet was filed in the FIR in question and by an order dated 16.12.2019, charges have been framed by the learned ACMM after examining the material on record.

4. Plainly, it would not be apposite for this Court to examine the allegations on merits in this petition. Thus, the petitioner’s prayer that the FIR in question be quashed, cannot be accepted at this stage.

5. Insofar as the complaint dated 22.09.2019 is concerned, the respondent is directed to examine the same and take such necessary steps as warranted in accordance with law.

6. No further orders are required to be passed in this petition.

7. The same is disposed of. The pending applications are also disposed of.”

11. After passing of the order dated 21st January, 2020, being aggrieved, the petitioner had filed a contempt petition being *CONT.CAS(C) 1433/2023*, which came to be disposed of vide order dated 05th October, 2023, with the following directions:

“1. The present contempt petition has been filed seeking initiation of contempt proceedings against the respondent for willfully and deliberately disobeying the order passed by this Court on 26th July, 2022 in W.P.(CRL) 1626/2022.



2. In terms of the aforesaid order, the respondent was directed to file Action Taken Report in pursuance of the complaint dated 22nd September, 2019 filed by the petitioner.

3. Counsel appearing on behalf of the respondent submits that a Status Report dated 8th October, 2022 was filed in the aforesaid Writ Petition. Even though the Report was titled as Status Report, it was in the nature of Action Taken Report.

4. Grievance of the petitioner is that the said Status Report was not supplied to him.

5. Having heard the counsels for the parties, the present petition is disposed of with a direction to the respondent to file a latest Action Taken Report within four weeks and supply a copy of the same to the counsel for the petitioner. The petitioner would have the right to file response thereto.

6. Accordingly, the present petition along with all pending applications stands disposed of.”

12. Perusal of the aforesaid order dated 05th October, 2023 clearly shows that a Status Report dated 08th October, 2022 was filed by the respondent in W.P.(CRL) 1626/2022. The said Status Report as filed by the respondent in W.P.(CRL) 1626/2022 has been attached as Annexure P-6 to the present petition, which reads as under:

“STATUS REPORT

1. This Hon’ble Court., vide Order dated 26.07.2022 passed in the captioned matter, has directed the Respondent No. 1 to file the Action Taken Report in pursuance of the complaint dated 22.09.2019 filed before the Director of Vigilance, Government of NCT of Delhi.

2. It is submitted that the Petitioner herein had filed the complaint dated 22.09.19 and complaint dated 30.09.19 before the Vigilance Directorate. The said complaints were forwarded to the CVO, DDA vide this Directorate’s letter dated 06.03.20 for taking necessary action in the matter as some part of the complaint pertained to DDA.

3. The aforesaid complaints were also forwarded to the Divisional Commissioner, Revenue Department with the request to examine the



complaints and send a report to this Directorate as the complaint pertained to officers of Revenue Department.

4. During the interregnum, some other documents were also received from the Petitioner and the same were also forwarded to the CVO, DDA and Revenue Department vide this Directorate's letter dated 06.03.20 and 07.04.21.

5. Due to non-receipt of requisite information/report, reminders dated 30.12.19, 05.02.2020, 06.03.20, 07.04.21, 16.12.21, 27.07.22 and 05.09.22 have been issued to the concerned department and the response from the Revenue Department is still awaited.

6. This Directorate is in the process of escalating and taking further action for seeking the requisite information from the concerned department so that an appropriate action in accordance with the law may be taken upon Petitioner's complaint.

It is humbly submitted that the Directorate of Vigilance, Govt. of NCT of Delhi is duty bound to comply with the all the directions, as may be passed by this Hon'ble Court from time to time."

13. Subsequent to the aforesaid Status Report, respondent had also filed a further Action Taken Report, which has been attached as *Annexure P-8*, which reads as under:

"ACTION TAKEN REPORT

MOST RESPECTFULLY SUBMITTED:

1. Petitioner has filed present contempt Petition Cont. CAS (C) 1433/2023 with the prayer to direct the respondents, i.e., Director Vigilance NCT Delhi & Ors. to provide action taken report in terms of the Court order dated 26.07.2022 in W.P. (CRL) 1626/2022.

2. Petitioner has given reference of order dated 26.07.22 in WP(Criminal) No. 1626 of 2022 in matter of Rakesh Tomar Vs the Director of Vigilance NCT Delhi and others direction upon to submit action taken report in pursuance of complaint dated 22.09.2019.

3. The complaints dated 22.09.19 and 30.09.19 made by Sh. Rakesh Tomar were received in this Directorate and the same were forwarded to the CVO, DDA vide this Directorate's letter dated 06.03.20 for taking necessary action in the matter.



4. The complaints dated 22.09.19 and 30.09.19 made by Sh. Rakesh Tomar were also forwarded to the Divisional Commissioner, Revenue Department vide letter dated 06.03.20 with the request to examine the complaint and send a report to this Directorate.

5. Some other documents were also received from Sh. Rakesh Tomar and the same were also forwarded to the CVO, DDA and Revenue Department vide this Directorate's letter dated 07.04.21."

14. Subsequently, order dated 14th February, 2024 was passed in a petition being W.P.(CRL) 1626/2022, filed by the petitioner, titled as *Rakesh Tomar Versus The Director Vigilance NCT Delhi & Ors.*, whereby, the said petition was disposed of, in the following terms:

1. Present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C., seeking the following reliefs:-

"a. A writ, order, direction in the nature of mandamus commanding specifically the Director of Vigilance, NCT Delhi/Respondent No-6 to show cause time bound why the order dated 21.01.2020 in WP(Criminal) No 170 of 2020 passed by Justice Vibhu Bhakru Hon'ble High Court Delhi as "In so far as the complaint dated 22.09.2019 is concerned the respondent is directed to examine the same and take such necessary steps as warranted according to law" not carried out in the light of in terms of the supreme Court Judgment Dated 29.11.1968 passed by Supreme Court Justice J.C Shah and Justice A.N Grover , in the matter of Appellants : Pravakar V.Sinari VS Respondent Shankar An ani Verlekar Supreme Court of India .as Criminal- prior-section 197 of criminal procedure code,1898 appellant Deputy Police Superintendent of Police -misused his official power -helped some persons in getting possession of disputed land-threatened complainant already under possession of disputed land -judicial commissioner holding that prior sanction under section 197 of criminal procedure code not necessary to implicate appellant -Supreme Court affirming view of judicial commissioner that appellant's approach in threatening complaint sound appellant public servant and not law maker cannot decide possession of land no sanction necessary for implicating and prosecution.



b. Pass any order or orders as this Hon'ble Court may deem fit and proper.”

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3. During the course of hearing, learned counsel for the Petitioner hands over a copy of order dated 05.10.2023, passed by this Court in Cont. Cas(C) 1433/2023, wherein the Court directed the Respondent to file the latest Action Taken Report ('ATR') within four weeks with copy to the Petitioner. Relevant part of the order reads as follows:-

“1. The present contempt petition has been filed seeking initiation of contempt proceedings against the respondent for willfully and deliberately disobeying the order passed by this Court on 26th July, 2022 in W.P.(CRL) 1626/2022.

2. In terms of the aforesaid order, the respondent was directed to file Action Taken Report in pursuance of the complaint dated 22nd September, 2019 filed by the petitioner.

3. Counsel appearing on behalf of the respondent submits that a Status Report dated 8th October, 2022 was filed in the aforesaid Writ Petition. Even though the Report was titled as Status Report, it was in the nature of Action Taken Report.

4. Grievance of the petitioner is that the said Status Report was not supplied to him.

5. Having heard the counsels for the parties, the present petition is disposed of with a direction to the respondent to file a latest Action Taken Report within four weeks and supply a copy of the same to the counsel for the petitioner. The petitioner would have the right to file response thereto.

6. Accordingly, the present petition along with all pending applications stands disposed of.”

4. Pursuant to the directions of the Court, ATR has been filed on behalf of the State. Before advertng to the contents of the ATR, Mr. Rahul Tyagi, learned ASC draws the attention of the Court to the complaint filed by the Petitioner which captures his grievance and submits that the action as required has been taken and the grievance stands redressed. For ready reference, relevant part of the complaint is as under:-

“Under the circumstances, I request you to kindly register FIR against 1) Sri Anil Kumar/L.A. Superintendent G.A. and his Assistant 2) Birsingh South Delhi 3) Sri M. Bharti



Tehsildar, 4) Ramesh Kumar, Kanoongo, 5) Yogender Kumar, Patwari attached to office of the SDM Houz Khas, Mehrauli, New Delhi attached to the office of SDM Mehrauli dishonestly and intentionally helped Udham Singh, Deputy Director and Anandpal S.O, DDA Horticulture, Division-4, South Delhi engaged with Yashdev Gupta and others found in the CCTV Footage for corruptly getting forged sale deed SL. No.3,724 registration date 10.03.2018 Sub Registrar Office SR VA Hauz Khas in the name of their representatives and cheated pertaining to property at Old Khasra No. 1608 to 1672, Mehrauli, New Delhi-30 and call me with CD of CCTV, and documents for evidences and witnesses to disclose the offence against them and do the needful.”

5. Heard learned counsel for the Petitioner and learned ASC for the State.

6. It is the stand of the State, emerging from the Status Report that complaints dated 22.09.2019 and 30.09.2019 made by the Petitioner, were received in the Directorate of Vigilance, Government of NCT of Delhi and were forwarded to the Chief Vigilance Officer, DDA vide letter dated 06.03.2020 for taking necessary action in the matter. The complaints were also forwarded to the Divisional Commissioner, Revenue Department vide letter dated 06.03.2020 with a request to examine the complaints and send a report in that regard. Subsequently, further documents received from the Petitioner were also sent to DDA and the Revenue Department for consideration.

7. It is further stated that Revenue Department vide letters dated 13.03.2023 and 07.03.2023 informed the Vigilance Directorate that no document was registered with Serial No. 3724 on 10.04.2018 and in fact, this number was not a registration number but a receipt number given to the Petitioner when the documents were submitted in the office of the SubRegistrar. It is further stated that the documents submitted under Serial No.3724 have not been accepted and rejection order was issued on 20.04.2019. Details of Khasra 1608 (new Khasra No. 1056) to 1672 (New Khasra No. 1168) were enclosed with the letter. Relevant paragraphs of the ATR are as under:-

“7. The Revenue Department vide their reply dated 13.03.2023 and 07.03.2023 has informed that that no document has been registered with S. No. 3724 on dated 10.04.2018. This is also inform that this is not a registration number but a receipt number which given to the applicant while submission of documents in Sub-Registrar Office. However, the documents submitted with



S. No. 3724 presented on 10.04.2018 had been rejected vide order N. F. No./Refusal/VSR-VA/HK/2019/1096 dated 20.04.2019.

8. Details of Khasra 1608(new Khasra No. 1056) to 1672(New Khasra No. 1168) is also enclosed.”

8. Having carefully gone through the ATR, it is palpably clear that necessary action has been taken by the concerned Departments of the State including DDA and the grievance of the Petitioner stands redressed. The document in question has not been registered and therefore, the Petitioner cannot insist on a direction for action against the officials of the Respondent, which he urges the Court to do, in the present petition including during hearing.

9. At this stage, learned counsel for the Petitioner seeks liberty to approach the Court again if the contents of the ATR are found to be false and/or contrary to the record.

10. Petition stands disposed of, granting liberty to the Petitioner to take recourse to remedies available in law, if the need arises and if so advised.”

15. Reading of the aforesaid order dated 14th February, 2024 passed in *W.P.(CRL) 1626/2022*, shows that the court has taken note of the fact that the complaints filed by the petitioner have been dealt with time and again and requisite orders with respect thereto have been passed.

16. In the aforesaid order dated 14th February, 2024, a Coordinate Bench of this Court has categorically held that necessary action has been taken by concerned department of the State, including the DDA. Thus, it is clear that the grievance of the petitioner stands redressed.

17. In case the petitioner has any further grievance with respect to the CD or *Annexure P-51*, as reproduced hereinabove, not having been taken into account by the respondent, the petitioner is at liberty to approach the respondent with a fresh representation by attaching all the requisite documents, including the CD which has been brought before this Court.

18. At this stage, learned counsel for the petitioner submits that he shall



file the representation with the respondent within a period of one week from today. Liberty is granted to the petitioner accordingly.

19. The petitioner shall submit fresh representation along with requisite documents with the respondent, within a period of one week. Upon receipt of the representation from the petitioner, the respondent shall deal with the complaint of the petitioner, by taking into account the fresh documents, including the CD submitted by the petitioner. The representation of the petitioner shall be considered and disposed of by the respondent expeditiously, preferably within a period of six weeks after receipt of the representation from the petitioner.

20. It is further directed that the complaint of the petitioner shall be considered and disposed of by the respondent by way of a speaking and reasoned order, which shall be communicated to the petitioner at the address which is given in the representation.

21. With the aforesaid directions, the present petition is disposed of, along with the pending application.

MINI PUSHKARNA, J

MAY 1, 2024
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