



2024 : DHC : 4235



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CONT.CAS(C) 742/2024 & CM APPL. 26686/2024****ANIL DUTT SHARMA**

..... Petitioner

Through: Mr. Manoj Kumar Dwivedi,
Advocate

versus

SHRI SUBHASISH PANDA & ORS.

..... Respondents

Through: Ms. Prabhsahay Kaur, SC with Mr.
Bir Inder Singh Gurm, Ms. Pragati
Singh, Advocates for STF
(M:9810158581)
Ms. Mehak Nakra, ASC-Civil,
GNCTD with Ms. Aditi Kapoor, Mr.
Gaurav Bhatt, Advocates for R-2 & 3
(M:9871144582)
Mr. Ashutosh Gupta ASC with Mr.
Anil Kr. Gupta and Mr. Arman
Monga, Advs. for MCD

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Date of Decision: 06th May, 2024**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****J U D G M E N T****MINI PUSHKARNA, J: (ORAL)****CM APPL. 26686/2024 (For Exemption)**

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

CONT.CAS(C) 742/2024

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



“a) initiate contempt read with section 176, 177 and 182 IPC proceedings against the respondents/contemnors by intentionally, wilfully, deliberately and knowingly of orders dated 01.11.2017, 07.02.2018, 20.02.2018, 09.03.2018 and 10.10.2018 and false information given to the Court by them;

b) direct the respondents to comply with the direction of this Hon’ble court passed in the Writ Petition (Civil) No. 9668/2019 vide orders dated 01.11.2017, 07.02.2018, 20.02.2018, 09.03.2018 and 10.10.2018 and ensure action against the unauthorized construction under section 343, 344, 345A, 337(4), 466A DMC Act and under section 95 DMC Act against the MCD officials and under D.P. Act against the concerned police officers;

c) Direct the respondents to submit record of action taken in the CM No.4797/2018 in WP(C) No.9668/17 and properties mentioned in the representation dated 28.02.2024 as a proof that action is initiated as per the procedure submitted before this Hon’ble Court;

xxx xxx xxx”

4. Learned counsel for the petitioner submits that despite the aforesaid order passed by this Court, no action has been taken by the respondents against the unauthorized construction existing in the various properties, which are subject matter of the complaints made by the petitioner.

5. Per contra, Ms. Prabhsahay Kaur, learned Standing Counsel for respondent no.1- Special Task Force (“STF”) submits that the petitioner has filed 692 complaints with the STF. She submits that the petitioner is a habitual litigant and cost has also been imposed upon the petitioner, time and again. She draws the attention of this Court to the order dated 24th January, 2020 passed by the Division Bench of this Court in W.P.(C) 10461/2017, wherein, the following order was passed:

“xxx xxx xxx

Taking note of the submissions of the counsel for the respondents, time and again, this petitioner has preferred several writ petitions about the illegal encroachment in which varieties of observations have been recorded about the locus and bonafide of the present petitioner. Even couple of days ago, a writ petition was filed



by this petitioner about the illegal encroachment, which was also dismissed by this Court. We, therefore, direct the petitioner to state:

- a) How does the petitioner get his livelihood and what is his bank account and branch?*
- b) How many writ petitions have been preferred by the petitioner as a Public Interest Litigation in this Court or any other Court pertaining to unauthorised construction?*
- c) What was the result of writ petitions preferred by this petitioner?*

These facts will be pointed out by the petitioner on oath within a period of four weeks from today. We also direct the petitioner to deposit ₹25,000/- with the Registrar General of this Court within four weeks from today. The Registrar General of this Court is directed to accept ₹25,000/- and the amount will be kept in a nationalized bank in the form of FDR.

The matter is accordingly adjourned to 4th March, 2020."

6. Attention of this Court has also been drawn to the order dated 12th April, 2023 passed by a Coordinate Bench of this Court in W.P.(C) 10628/2020, wherein, it had been directed as follows:

"xxx xxx xxx

9. Keeping in view the aforesaid, the present petition is also dismissed with a cost of Rs.20,000/- to be deposited by the petitioner with the Delhi Legal Services Authority (DSLTA) within a period of two weeks from today. The amount deposited shall be utilized for providing counselling/psychological support to POCSO victims requiring such assistance.

xxx xxx xxx"

7. Further, attention of this Court has been drawn to the judgment dated 07th August, 2019 passed by the Division Bench in W.P.(C) 10461/2017, wherein, the following order was passed:

"xxx xxx xxx



23. *No writ of mandamus can be issued for such prayers against Respondent Nos. 1 to 5.*

With these observations, this writ petition is hereby dismissed with costs of ₹ 25,000/- (Rupees Twenty Five Thousand Only). This amount will be deposited in the Bank Account No. 15530110000359, Registrar General Account, Juvenile Justice Centre SB, UCO Bank, Delhi High Court, New Delhi either by cheque or bank draft, within a period of six weeks from today, towards Juvenile Justice Fund. This amount shall be utilised by the Government of NCT of Delhi to perform duties under the Juvenile Justice Act, 2015 for the welfare of the juveniles.

xxx xxx xxx

8. Similarly, vide order dated 08th December, 2022, passed in W.P.(C) 37/2018, cost was again imposed upon the petitioner, in the following manner:

“xxx xxx xxx

7. Keeping in view the aforementioned facts as well as petitioner’s conduct as noted in the earlier orders passed in aforementioned petitions, the present review petition is dismissed with a cost of Rs.20,000/- to be deposited by the petitioner with the Delhi State Legal Services Authority within a period of two weeks from today. Let the said amount be utilized towards providing counseling/psychological support to POCSO victims requiring such assistance. Proof evidencing receipt of deposit shall be filed with the Registry of this Court failing which the Registry shall put up the matter before the Court.”

9. This Court also notes the observations made by the learned Division Bench in its judgment dated 07th August, 2019 in W.P.(C) 10461/2017, wherein it had been observed as follows:

“xxx xxx xxx

6. One of such petitions is W.P.(C) 7556/2015 vide order dated 10th August, 2015, in which the conduct of this petitioner has also been noted in paragraphs 2 to 5.

7. For ready reference, paras 2 to 5 of the aforesaid judgment and order are reproduced herein as under:



“xxx xxx xxx

5. I am of the view that this Court cannot lend its process to such a person whose intent in filing petitions before this Court, with respect to unauthorized construction, is to make a living out of those.”

xxx xxx xxx”

10. Learned counsel for respondent no.1- STF has also handed over copy of the Minutes of Meeting of the STF, wherein the status of 265 properties has been given, which form the subject matter of the various complaints made by the petitioner. The status of the various properties, as discussed by the STF, is reproduced as under:

“xxx xxx xxx

C. MUNICIPAL CORPORATION OF DELHI (EAST)

1.	High Court Matter: Contempt. Case(C) No.766/2020/2020, in W.P.(C) No.9513 of 2019 Anil Dutt Sharma vs Tarun Kapoor & Ors., regarding contempt of order dtd. 20.09.2019 passed by Hon’ble High Court in WP(C) No. 9513/19 on unauthorized construction in EDMC and SDMC areas. (SNS2020110912)	Status of the properties is as under:		MCD(East) to upload the status on web-portal in the matter.
		Properties not traced	13	
		Old Properties	25	
		Properties as per sanction plan	10	
		Properties booked under unauthorized construction	32	
		• Sealing action taken- 13		
		• Part demolition action taken -12		
		• Vacation notice issued- 11		



		11 Properties are occupied. Letters regarding vacating the properties have been written to SHO of concerned police stations. Further demolition action will be taken after vacating the occupied properties. The property which is not yet traced (13 No.) were to be traced within 2 weeks i.e. by 11th August. EDMC to take up the matter with the higher authority to ensure availability of Police Force. Action has been planned for 29.04.2024 ATR awaited.													
2.	High Court matter: W.P.(C) No. 10628/2020, Anil Dutt Sharma Vs Special Task Force, EDMC, North DMC, SDMC & Ors., regarding non-action on the representation filed by Sh. A.D. Sharma in pursuance of Hon'ble High Court direction in W.P.(C) No. 6279/16(SNS20201224156)	<table><tr><td colspan="2">Status of 176 properties:</td></tr><tr><td>Properties not traced</td><td>41</td></tr><tr><td>Properties which are old and occupied</td><td>35</td></tr><tr><td>Properties which are as per sanction plan</td><td>13</td></tr><tr><td>Properties booked under DMC Act</td><td>87</td></tr><tr><td> • Part demolition/sealing action taken-45 • Vacation notice issued- 35 • Sealed-1 </td><td></td></tr></table> The property which is not yet traced (41 No.) are to be traced within 1 month. EDMC to take up the matter with the higher authority to ensure availability of Police	Status of 176 properties:		Properties not traced	41	Properties which are old and occupied	35	Properties which are as per sanction plan	13	Properties booked under DMC Act	87	• Part demolition/sealing action taken-45 • Vacation notice issued- 35 • Sealed-1		MCD(East) to upload status on web-portal.
Status of 176 properties:															
Properties not traced	41														
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Properties booked under DMC Act	87														
• Part demolition/sealing action taken-45 • Vacation notice issued- 35 • Sealed-1															



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		<i>Force.</i> <i>Action has been planned for 26.04.2024</i> <i>ATR awaited.</i>	
3.	High Court matter: WP(CRL.) No ---/2021, Anil Dutt Sharma Vs The State & Ors., regarding no action taken so far against the properties and builders, who have done unauthorized constructions upon property i.e. 520 Ganpati/Mahalaxmi compound, B-37 & B-22, Jhilmil industrial area, 24/41, 100 feet Road, Chazzupur, 1/6801 East Rohtash Nagar, 702 Loni Road, A-52, R Block Dilshad Garden etc. (SNS2021120155P)	As of 23.02.2023 the status of all the 9 properties is as follows:- • Sealing action taken – 6 • Property under protection – 1 • Demolition action taken – 1 • Matter subjudice in Delhi High Court -1 Regularization application has been approved by the competent authority and regularization certificate has been issued on 28.07.2023.	MCD (East) to upload final ATR

xxx xxx xxx”

11. Learned counsel appearing for the STF further submits that all the above information is also available on the web portal of the STF and the petitioner, being the complainant, can see the said information on the said web portal. She submits that the petitioner is aware of all the action that has been taken under the aegis of the STF. She further states that action continues to be taken against the unauthorized construction.

12. Ms. Mehak Nakra, learned counsel appearing for respondent nos. 2 and 3 also reiterates the submissions as made by learned counsel for respondent no.1-STF.

13. Responding to the aforesaid submissions, learned counsel for the



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petitioner, in rejoinder, submits that further unauthorized construction is still going on in the various properties. However, he has not been able to point out any specific property, in which action has not been taken by the respondents. He submits that the petitioner may be granted liberty to file an affidavit to bring on record the status of the same.

14. Having heard learned counsels for the parties, this Court is of the view that no contempt has been committed by the respondents, as the respondents have been able to show the continuous action that is being taken by the respondents, pursuant to the various complaints filed by the petitioner.

15. Law in this regard is very clear that in proceedings against any party for contempt, willful and contumacious disobedience has to be shown.

16. In the present case, when the STF is regularly taking up the matter in its meetings and also taking up the matter with the respective local bodies for the purposes of taking action against the unauthorized construction that has been pointed out by the petitioner, it cannot be said that there is any willful or deliberate disobedience of the order passed by this Court.

17. In case the petitioner has any grievance with respect of any particular action not being taken, the same may be brought to the notice of the STF.

18. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MAY 6, 2024

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