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

+ **W.P.(CRL) 1626/2022**

RAKESH TOMAR

..... Petitioner

Through: Mr. Raj Balam Sharma, Advocate

versus

THE DIRECTOR VIGILANCE NCT DELHI & ORS.

..... Respondents

Through: Mr. Rahul Tyagi, ASC (Crl.) with
Ms. Priya Rai, Mr. Sangeet Sibou and Mr. Jatin,
Advocates for R-1 and 6.

Mr. Yasir Rauf Ansari, ASC (Crl.) with Mr. Alok
Sharma and Mr. Vasu Agarwal, Advocates for R-2
and R-3 with SI Ashutosh Mishra, PS: Mehrauli.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.02.2024

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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."

2. Petitioner had earlier filed a writ petition in this Court being W.P. (Crl.) 170/2020 titled '**Rakesh Tomar v. The Chief Secretary NCT Delhi & Ors.**', which was disposed of vide order dated 21.01.2020, with the following directions:-

"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."



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 Houz 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 Sub-Registrar. 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.

JYOTI SINGH, J

FEBRUARY 14, 2024/KA/kks