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

+ **W.P.(C) 7802/2024, CM APPL. 32341/2024 & CM APPL. 47082/2024**

JITENDER KUMAR AGGARWAL @ JATENDER KUMAR AGGARWALPetitioner

Through: Mr. Aditya Singh, Mr. Sanjeev Kumar Sharma, Mr. Rajiv Dalal and Mr. Vikas Bhardwaj, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Ms. Chand Chopra and Ms. Yogya Sharma, Advs. for R-2.
Ms. Sangeeta Bharti, SC for DJB with Ms. Malvi Balyan and Ms. Vidushi Gupta, Advs. for R-3.
Mr. Divyam Nandrajog, PC, GNCTD with Mr. Prakhyat Gargasya, Adv. for R-4.
Mr. Sanat Kumar, Sr. Adv. with Ms. Hinu Mahajan and Mr. Aditya Sharma, Advs. for R-5.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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16.08.2024

CM APPL. 47083/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7802/2024, CM APPL. 32341/2024 & CM APPL. 47082/2024



3. The petitioner in the present writ petition has prayed for the following reliefs:-

“(a) Issue a Writ of Mandamus or any other writ, order or direction in the similar nature thereby directing the Official respondents to protect and enforce the rights guaranteed to the Petitioners under Articles 25, 26 read with Articles 21, 14 and 19 of the Constitution of India and thereby removing all the obstructions caused in blocking the sewage drainage pipe of the Shri Laxmi Narayan Temple located at Plot No. 43, Class A, Block West, Dilshad Colony, Garden Estate, Village Jhilmil Tahirpur, Delhi-110095; and /or

(b) Issue a Writ of Mandamus or any other writ, order or direction in the similar nature thereby directing the Official Respondent No.1 to remove all the obstructions caused by blocking the sewage drainage pipe and ensure that the Petitioners and other devotees of the Shri Laxmi Narayan Temple are able to use the premises of the temple and practice their right to religion as guaranteed under Article 25 of the Constitution of India ; and /or

(c) Issue a Writ of Mandamus or any other writ, order or direction in the similar nature thereby directing the Respondent No.4 to submit before this Hon'ble Court the action taken on the complaint filed with it by the Petitioner; and /or

(d) Issue a Writ of Mandamus or any other writ, order or direction in the similar nature thereby directing the Respondents not to obstruct or block”

4. On 29.05.2024, the Court had passed the following order:-

“1. The present petition has been filed by the petitioner who is a trustee of Shri Laxmi Narayan Temple at Dilshad Garden, Shahdara, Delhi.

2. The petitioner is aggrieved on account of the fact that some miscreants have illegally closed the sewage drainage pipe of the Temple in question which is the only source through which sewage of the Temple is discharged into the main drain pipe.

3. It is submitted that due to said illegal action, the devotees of the This is temple, the priests and the staff of the temple are unable to even offer water and observe other necessary religious customs.

4. Respective counsel for the MCD, the DDA and the DJB submit that they have not taken any action so as to block the sewage drainage pipe of the temple in question.



5. Needless to say, it is the responsibility of Civic Bodies/Authorities to ensure that the discharge of the sewage from the temple is not disrupted on account of any illegal closure of the sewage drainage pipe of the temple by miscreants or any other third party.

6. Accordingly, the concerned civic agencies are directed to ensure that the aforesaid blockage of the sewage drain pipe of the temple is removed so that the functioning of the temple is not impeded. The petitioner shall also be at liberty to take appropriate remedial steps in this regard.

7. Let reply be also filed by the respondents within a period of four weeks from today.

8. List on 16.08.2024.”

5. Learned senior counsel appearing for respondent No.5 has filed the counter affidavit and has also sought for recall of the order dated 29.05.2024 on the ground that the concerned Trust, of which the petitioner is a trustee, is grossly misusing the premises and various unlawful activities are being carried out. That apart, he submits that even the construction raised by the Trust is unauthorised. He, therefore, submits that the Court may not consider to extend the order dated 29.05.2024 anymore.

6. Learned counsel appearing for the petitioner in the instant petition, however, submits that the petitioner's grievance stands mitigated after passing of the order dated 29.05.2024 and the same must be made absolute. He asserts that if the said order is made absolute, the petitioner would withdraw the instant writ petition.

7. I have considered the submissions made by learned counsel appearing for the parties and have also perused the record.

8. The grievance in the instant writ petition is only with respect to the directions for removal of obstructions in alleged blocking of sewage drainage pipe. The Court has noted in its order dated 29.05.2024 that it is the



responsibility of the civic bodies/authorities to ensure that the discharge of sewage from the temple is not disrupted on account of any illegal closures of the sewage drainage pipe by any miscreants or other third party. The Court is of the considered opinion that so long as the construction in question is not found to be illegally raised or it is not held that the concerned Trust is in violation of any rules and regulations, the petitioner is entitled to the aforesaid directions.

9. Accordingly, the order dated 29.05.2024 is made absolute.

10. Liberty is granted to respondent No.5 to make a representation or to take necessary steps for ventilation of its grievance before an appropriate authority and if such steps are taken, the concerned authority shall deal with the same in accordance with law.

11. The petition stands disposed of alongwith the pending applications.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 16, 2024/p