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

+ **W.P.(C) 8456/2024 & CM APPL 52292/2024**

HARBANS GANDHI

.....Petitioner

Through: Mr. N.K. Aggarwal, Adv.

versus

THE GOVERNMENT OF N.C.T. OF DELHI, AND ORS.

.....Respondents

Through: Mr. Mohit Bhardwaj, Adv. for R-1 &
4

Ms. Aarushi Tikku, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

09.09.2024

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1. The petitioner in the instant petition has prayed for the following reliefs:-

"a. Issue a writ of mandamus and/or any other appropriate writ/ orders/ directions to the Respondents for taking action against illegal construction by owners/occupiers of property No. 17/4, Prem Nagar, New Delhi, in the form of deviations in aforesaid property vis-a-vis the sanctioned building plan, and restoration of the same in accordance with the sanctioned layout plan;

b. Issue a writ of mandamus and/or any other appropriate writ/ orders/ directions to the Respondents for taking action against illegal encroachment of public land by the owner/occupier, towards the Western side of the Property No. 17/4 (ground floor property), Prem Nagar, New Delhi, including construction of store room, boundary wall, covering the area with fiber sheets, installation of an illegal entry gate etc., as well as Encroachment over government land by placing pots etc. on public passage/land, construction of Almirah by encroaching the area under the stairs leading to the First-floor property as well as common passage, and



prompt removal of the aforesaid encroachments;

c. Issue a writ of mandamus and/or any other appropriate writ/ orders/ directions to the Respondents for taking action against the misuse of Property No. 17/4 (ground floor property), Prem Nagar, New Delhi, by running commercial establishment i.e. Super Electricals and M/s Universal Micro Technologies, from the aforesaid property;

d. Issue a writ of mandamus and/or any other appropriate writ/ orders/ directions to the Respondents for taking action against the misuse of Property No. 17/4 (ground floor property), Prem Nagar, New Delhi, by running commercial establishment i.e. Super Electricals and M/s Universal Micro Technologies, from the aforesaid property;

e. Issue a writ of mandamus and/or any other appropriate writ/ orders/ directions to the Respondents for carrying out inquiry into the illegal installation of CCTV Cameras on the property bearing No. 17/4A (First Floor) which belong to the Petitioner and misusing the electricity units i.e. the benefit given by the government, for installation of said CCTV Cameras, and initiate appropriate action for the aforesaid wrongful act of the Owner of the Property No. 17/4 (ground floor property), Prem Nagar, New Delhi, and

f. Issue a writ of mandamus and/or any other appropriate writ/ orders/ directions to the Respondents to take appropriate action against illegal trade licence obtained by the owner/occupiers of Property No. 17/4 (ground floor property), Prem Nagar, New Delhi and installation of advertisement /sign boards, etc.

Any other suitable order(s) or relief(s) as this Hon'ble Court may deem appropriate considering the facts and circumstances of the case, may kindly be passed in favour of the Petitioner."

2. The respondents have placed on record the Status Report during the pendency of the instant writ petition. The Status Report dated 25.07.2024 reads as under:-

"I, Harbans Gandhi, S/o Sh. Asa Nand Gandhi, 17/4A, Prem Nagar, New Delhi, aged about 67 years, do hereby solemnly affirm and declare as under:

1. In the Joint affidavit dated 25.07.2024 filed on behalf of Respondents No. 2 & 3, it has been mentioned that a notice dated 24.07.2024 has been issued to the owner/occupier of Property bearing no. 17/4(Ground Floor),



Prem Nagar, New Delhi, however, it has not been disclosed as to whether there is a deviation of the sanctioned building plan of the Land and Development Office and it has not been disclosed as to whether a notice has been issued to the Land and Development Office/lessor of the property in question, therefore, the aforesaid Status Report is incomplete in respect of the illegal and unauthorised construction in respect of the Property bearing no. 17/4 (Ground Floor), Prem Nagar, New Delhi in shape of deviations vis-a-vis the sanctioned building plan of the Land and Development Office qua the property in question.

2. It has been stated in the Joint affidavit dated 25.07.2024 that the encroachment has been removed on 15.07.2024, however, the land has not been restored for public use and as such, the same is still being misused by the encroachers for their own use and purposes.

3 The aforesaid status report is completely silent about violation and illegal activities by the owner/occupier of Property bearing no. 17/4(Ground Floor), Prem Nagar, New Delhi as stated in para No.8 of the petition specifically 8.4 to 8.9, which are as follows:

8.4 Illegal construction of Almirah by encroaching the area under the stairs lending to the First-Poor property

8.5 Illegal installation of CCTV Cameras on the property bearing No. 17/4A and misusing the electricity units i.e. the benefit given by the government by playing fraud.

8.6 Illegal installation of advertisement/sign boards

8.8 Illegally obtaining trade licence

8.8 Illegal encroachment over the passage area

8.9 Illegal installation of electricity meter(s) ”

3. Admittedly, encroachment has been done by the owners/occupiers of property bearing no. 17/4 (Ground Floor), Prem Nagar, New Delhi, however, inadvertently, Property bearing no.] 7/4 A i.e. the property of the Petitioner herein has been mentioned in the Status Report dated 25.07.2024, which is incorrect as the action has been taken against the owner/occupier of Property bearing no. 17/4 (Ground Floor), Prem Nagar, New Delhi, whereas the Petitioner is owner of Property bearing no. 17/4A (First Floor), Prem Nagar, New Delhi. In aforementioned circumstances, the Respondents are under an obligation to take strict action against the violations/ illegal activities as mentioned in para No. 8



of the Petition as well as any other violation/deviations that are found during the inspection of the property in question i.e. Property bearing no. 17/4(Ground Floor), Prom Nagar, New Delhi, by the Respondents.”

4. *Let the Corporation to carry out further necessary action, in accordance with law.”*

5. The petitioner has filed the objection to the said Status Report and submits that the respondents have not carried out proper inspection and have mentioned the incorrect details of the property.

6. Having considered the nature of the grievance raised in the instant writ petition and the stand being taken by the respondent, the Court is of the considered opinion that the petitioner can agitate the grievance before the Special Task Force (STF) which has been constituted in pursuance of the directions of the Supreme Court *vide* order dated 24.04.2018 in W.P. (C) 4677/1985 titled as ***M.C. Mehta v. Union of India***.

7. The petitioner shall also be at liberty to place reliance on the pleadings and the Status Report filed by the respondent-Corporation and the relevant orders passed by this Court from time to time.

8. If the petitioner does so, let his grievance be considered by the STF in accordance with law, with due expedition.

9. With the aforesaid observations, the petition stands disposed of alongwith pending application. All rights and contentions are left open.

PURUSHAINDR KUMAR KAURAV, J.

SEPTEMBER 9, 2024

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