



\$~17

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

+ **W.P.(C) 8603/2024, CM APPL. 35254/2024, CM APPL. 35255/2024**

AVINESH KUMAR

..... Petitioner

Through: Mr. Harsh Kumar, Mr. Aditya Raj,
Ms. Sikha Gogoi, Mr. Aditya Aasthi,
Ms. Ankita Bidhuri and Mr. Neel
Kumar Sharma, Advocates

versus

DELHI DEVELOPMENT AUTHORITY & ANR. Respondents

Through: Ms. Shobhana Takiar, S.C. for DDA
Mr. Tushar Sannu and Mr. Shobhan
Sachdeva, Advocates for GNCTD
with SI Vishvendra Singh PS
Ghazipur

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

10.06.2024

%

1. The present petition under Article 226 of the Constitution of India has been filed seeking to quash the Letter dated 01.06.2024 against the Respondent No.1.

2. The Petitioner had filed a Suit, for Mandatory and Permanent Injunction and Damages against the Respondent seeking relief in respect of Shiv Temple, situated in Shiv Park, Kondli, Sabzi Mandir, Delhi, However the said Suit was dismissed vide Judgement dated 24.03.2023. An Appeal bearing No. RFA(OS) 403/2023 has been preferred against the said Judgement dated 24.03.2023 wherein, the operation of the impugned Judgement has been stayed *vide* Order dated 19.05.2023. It is submitted that



the said interim stay had been extended further till 08.09.2023. Despite the stay of the impugned Judgement, the Respondent N vide its Letter dated 01.06.2024 has sought Police assistance from the DCP, Distt. East, Patparganj, Delhi to carry out demolition which is scheduled for 11.06.2024 to remove the unauthorized encroachments and illegally constructed Shiv Temple from the land of Respondent No. 1.

3. Learned counsel for the Petitioner has submitted that even though the impugned Judgement dated 24.03.2023 dismissing the Suit of the Petitioner has been stayed in the aforesaid Appeal, the respondent No. 1 with malafide intention is continuing to take action for demolition of the Shiv Temple.

4. Learned counsel for the Respondent No. 1 has submitted that since an Appeal preferred vide RFA(OS) 403/2023 is pending, the present Writ Petition is not maintainable. Learned counsel for the Respondent No.1 further submits that the present Petition challenging the Letter dated 01.06.2024 should have been challenged in the RFA(OS)403/2023 and the present independent Writ Petition is not maintainable.

5. Learned counsel for the petitioner seeks permission to withdraw the present Petition with liberty to move an appropriate application in the said Appeal.

6. In view of the facts as mentioned above, the Petition is permitted to be withdrawn with the directions that four weeks time is granted to the Petitioner to move the appropriate application in the RFA(OS)403/2023. Till then, no coercive action shall be taken by the respondents.



The Petition is accordingly disposed of along with pending applications.

**NEENA BANSAL KRISHNA
(VACATION BENCH)**

JUNE 10, 2024/PT