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

+ **W.P.(C) 8660/2024 & CM APPL. 35432/2024**

GURPREET SOBTI

..... Petitioner

Through: Mr. Virender Ganda, Senior Advocate
with Mr. Narender Prabhakar, Mr.
Ayandeb Mitra, Ms. Akanksha
Mathur and Ms. N. Dua, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND OTHERS

..... Respondents

Through: Ms. Shobhana Takiar, Standing
Counsel for R-1
Mr. Sanjeev Sabharwal along with
Mr. Pritish Sabharwal, Advocates for
R-2

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **19.06.2024**
CM APPL. 35431/2024 (Exemption)

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

W.P.(C) 8660/2024

3. The present writ petition is filed under Article 226 of the Constitution for quashing of the decision taken by the respondent no.1 allegedly on the recommendation of the respondent no.3 for demolishing the property of the petitioner bearing no. 19A situated in the unauthorised colony, i.e., JNU



Road Village Kishangrah located in Khasra no. 1234 (New Number)/ 1675 min (Old Number) in the revenue estate of Mehrauli New Delhi and also for quashing the requisition letter dated 10.06.2024 issued on behalf of the respondent no.1 for seeking the police protection on 20.06.2024 for demolishing the property of the petitioner.

4. The learned Senior Counsel for the petitioner stated that the petitioner was never made aware about the recommendation of the respondent no.3 for demolishing of the property no. 19A as detailed hereinabove stated to be belonging to the petitioner. It is further argued that the petitioner was denied a right of fair hearing before making alleged recommendation by the respondent no.3 to the respondent no.1.

5. The learned Senior Counsel for the petitioner in support of his arguments cited **Dargha Najeebuddin Firdousi V DDA & Ors.** in W.P.(C) bearing no. 840/2023 which was decided vide judgment dated 08.11.2023 wherein it was held as under :

16. The Petitioners arduously asserted that the decision to demolish their properties was made without affording them the fair hearing required by Section 30(1) of the DDA Act. They argue that they were denied the procedural right to a show-cause notice against the demolition, which they deem essential to the legality of the process. The DDA, in its defence, maintains that the demolition is being conducted as an effort to conserve the forest area and the Park, and that they are proceeding under the auspices of this Court's supervision.

17. However, it remains unchallenged that the persons affected by the demolition drive were not given the opportunity to present their case before the authorities, which is a procedural safeguard enshrined in the DDA Act. The Court's involvement in overseeing the conservation efforts does not exempt the DDA from adhering to the statutory procedures laid down by the



legislature. Principles of natural justice demand that those whose interests are adversely affected by an administrative action, must be given a chance to be heard, particularly when such action carries the significant repercussion of depriving them of their property. In this aspect, the Petitioners' arguments hold weight. Regardless of the environmental imperatives or the Court's prior orders, the obligation of the DDA to act within the framework of the law and ensure procedural fairness to those affected by its actions, remains intact. The Court finds that this procedural infraction stands in need of rectification, and the Petitioners' objection on this ground is upheld.

19. However, since it is an admitted position that no intimation was issued to the Petitioners prior to the demolition notice as mandated by the provisions of the DDA Act, we hereby quash the demolition notice issued on 12th December, 2022. Consequently, we direct the DDA to commence the process anew, ensuring that all Petitioners are accorded a fair and reasonable opportunity to be heard in accordance with proviso to Section 30(1) of the DDA Act, before any further demolition action is initiated. This exercise shall be completed within a period of three months from today.

6. The learned Senior Counsel for the petitioner further stated that the petitioner at present is completely remediless as such this court is having the jurisdiction to entertain the present petition.

7. Ms. Shobhana Takiar, Advocate on behalf of the respondent no.1/DDA and Mr. Sanjeev Sabharwal, Advocate for respondent no.2 appearing on advance notice stated that the respondent no.3 that the judicial committee appointed by the Supreme Court in case of **MC Mehta V Union of India** in writ petition bearing no. 4677/1985 has taken the decision to recommend the respondent no.1 for demolishing the property bearing no. 19A(as detailed hereinabove) and the appropriate remedy lies before judicial committee not before this Court.



8. It is specifically mention by the Hon'ble Supreme Court in MC Mehta Case that any challenge to the decision of the monitoring committee will lie with the Supreme Court only.

9. In view of the said observation made in MC Mehta Case, this court does not have any jurisdiction to entertain the present petition. Accordingly, the present petition is dismissed along with pending applications, if any.

**DR. SUDHIR KUMAR JAIN
(VACATION JUDGE)**

JUNE 19, 2024/SS/ABK