



2024:DHC:5216-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **LPA 506/2024, CM APPL. 35594/2024, CM APPL. 35596/2024
& CM APPL. 35597/2024****GURPREET SOBTI**

.... Appellant

Through: Ms. Smita Maan and Mr. Vishal
Maan, Advocates.

versus

DDA & ORS.

..... Respondents

Through: Ms. Shobhana Takiar, Standing
Counsel with Mr. Kuljeet Singh,
Advocate for DDA.

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Date of Decision: 12th July, 2024.**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****MANMOHAN, ACJ : (ORAL)**

1. Present appeal has been filed under clause X of the Letters Patent Act, 1866 read with Delhi High Court Rules, 2018 impugning the judgment dated 19th June, 2024 passed by the learned Single Judge in W.P.(C) 8660/2024 titled "*Gurpreet Sobti Vs. DDA & Ors.*" filed by the appellant whereby the said writ petition was dismissed in *limine* on the ground of maintainability.

2. The appellant claims herself to be the owner in peaceful possession of a private property bearing no.19A, admeasuring 347 sq. yds. comprised in Khasra no.1675 (New Khasra No.1234) situated at JNU Road,



2024:DHC:5216-DB



Kishangarh, New Delhi. The said property is stated to form part of an unauthorized colony, namely, JNU Road, Kishangarh. It is stated that the subject property was sealed by the MCD sometime in the year 2018 in a mass sealing drive on the JNU Road, allegedly without any sealing orders having been passed by any of the authorities.

3. It is further stated that the appellant had assailed the said sealing by filing Appeal No.76/2023 captioned “*Gurpreet Sobti vs. MCD & Ors.*” seeking permanent de-sealing before the Judicial Committee constituted by the Supreme Court *vide* its order dated 13th September, 2022 passed in W.P.(C) No.4677/1985 captioned “*M.C. Mehta vs. Union of India & Ors.*”. It is stated that in the status report filed therein, the property was stated to be forming part of and falling within the boundary of the unauthorized colony namely JNU Road, Village Kishangarh, New Delhi.

4. *Vide* the order dated 05th February, 2024, the Judicial Committee recorded that the property falls within the aforesaid unauthorized colony and simultaneously, the statement of the counsel for DDA to the effect that the said colony is approved for conferment of ownership rights was also recorded. Simultaneously, the MCD was directed to assess the misuser charges for the said property. Pursuant thereto, *vide* the order dated 20th March, 2024, the property was directed to be permanently de-sealed subject to deposit of misuser charges amounting to Rs.17,19,208/- as assessed by the MCD.

5. It is stated that before the seal could be reopened, the respondent no.1/DDA had illegally and unilaterally demolished the property of the appellant. Being aggrieved by such demolition, the appellant filed the



2024:DHC:5216-DB



underlying writ petition bearing W.P.(C) No.8660/2024. It is stated that *vide* the impugned judgment dated 19th June, 2024, learned Single Judge dismissed the writ petition in *limine* on the ground of maintainability. It is stated that the said dismissal was based on the statement of the counsel for DDA that the demolition action was undertaken on the specific orders of respondent no.3/Monitoring Committee. It was further stated by the counsel for the DDA before the learned Single Judge that any challenge to the decision of the Monitoring Committee would necessarily lie before the Supreme Court only. It is stated that it was on this basis that the learned Single Judge had passed the impugned judgment on the ground of lack of jurisdiction.

6. Ms. Maan, learned counsel for the appellant submits that the learned Single Judge did not consider the fact that there was no order, much less a show cause notice issued by the Monitoring Committee to the appellant before any such direction for demolition was passed. She submits that it is only when the Monitoring Committee passes any such order, the appellant would be obligated to approach the Supreme Court for appropriate redressal. She submits that since there is no such notice or order, the writ was maintainable and the learned Single Judge ought to have entertained the said writ petition.

7. Learned counsel also submits that not only was there no order passed by the Monitoring Committee, equally, the respondent DDA issued no show cause notice or any order before carrying out such demolition. She submits that in the absence of such vital material infractions of law, no such demolition could at all have taken place. She also submits that not



2024:DHC:5216-DB



only has the DDA demolished the property illegally and unconstitutionally, but has also taken over the possession of the subject property unlawfully. It is in these circumstances, she submits that learned Single Judge ought not to have dismissed the writ petition in *limine* on the ground of lack of jurisdiction. According to her, in the absence of aforesaid material vital documents, the writ petition before this Court under Article 226 of the Constitution of India, 1950 was, undoubtedly maintainable.

8. After hearing the arguments of Ms. Maan, learned counsel for the appellant, this Court had directed Ms. Takiar, learned counsel for the DDA to obtain appropriate instructions in the aforesaid context.

9. Pursuant thereto, Ms. Takiar has filed on record the Minutes of the Meeting dated 28th May, 2024 of the Monitoring Committee regarding various issues related to DDA. In that meeting, it is noted at Srl. No.2, alongwith the name of the appellant and the Appeal No.76/2023, that property no.19A, JNU Road, Kishangarh, New Delhi which is the subject property, was slated for initiation of action for demolition. It is apparent that respondent no.1/DDA has carried out the demolition of the property of the appellant under the specific directions of the Monitoring Committee. A copy of the Minutes of the Meeting dated 28th May, 2024 of the Monitoring Committee has now been handed over to learned counsel for the appellant. Thus, the submission of Ms. Maan that there was no such direction of the Monitoring Committee appears to be incorrect. Though, in all fairness, it must be noted that these Minutes of the Meeting dated 28th May, 2024 of the Monitoring Committee, were not placed before the learned Single Judge.



2024:DHC:5216-DB



10. Ms. Takiar has also placed on record the order of the Supreme Court dated 28th January, 2019 passed in W.P.(C) No.4677/1985 in the case of “*M.C. Mehta vs. Union of India & Ors.*”, wherein it has been categorically directed that any challenge to the decision of the Monitoring Committee will lie to that Court only. The relevant extract of the said order is reproduced hereunder:

“...Report No. 145

Considered the report No. 145 dated 24.01.2019.

Mr. Ranjit Kumar, learned senior counsel, who is appearing as an amicus in this matter has pointed out before us the order dated 23.01.2019 passed in LPA No. 6/2019 by the Division Bench of the High Court of Delhi at New Delhi. Suffice it to say that vide judgment dated 15.12.2017 (in I.A. Nos. 93010 and 93007 of 2017 in W.P. (C) No. 4677/1985, reported in (2018) 2 SCC 144), this Court has passed a judgment and observed in paragraphs 38 and 39, as under:—

“38. We make it clear that henceforth it will not be necessary for any person whose residential premises have been sealed for misuse for any commercial (other than industrial) purposes at the instance of the Monitoring Committee to file an appeal before the appropriate statutory Appellate Tribunal. Instead, that person can directly approach the Monitoring Committee for relief after depositing an amount of Rs. 1,00,000/- with the Monitoring Committee which will keep an account of the amounts received by it. Any person who has already filed an appeal before the appropriate statutory Appellate Tribunal but would prefer approaching the Monitoring Committee may withdraw the appeal and approach the Monitoring Committee for relief on the above terms and conditions and on deposit of Rs. 1,00,000/- as costs with the Monitoring Committee, provided that the premises were sealed at the instance of the Monitoring Committee. Any challenge to the decision of the Monitoring Committee will lie to this Court only. We are constrained and compelled to make this order given the history of the case and the more than serious observations of this Court of an apparent nexus between some entities and the observations regarding corruption and nepotism.



2024:DHC:5216-DB



39. We make it clear that this order will enure to the benefit of only those who are using residential premises for commercial purposes (non-industrial) or for any other non-residential purpose and whose premises were sealed at the instance of the Monitoring Committee. This order will not at all enure for the benefit of anybody using residential premises for any industrial activity of any sort or nature whatsoever.”

(Emphasis supplied)

This Court has made it clear that any challenge to the decision of the Monitoring Committee will lie to this Court only. Apart from that this was reiterated again by this Court. On 07.09.2018, this Court, inter alia passed the following order:—

“... It is stated that some of the defaulting individuals/organizations are approaching the Courts - whether it is the High Court or the District Court and even in one case the State Consumer Disputes Redressal Commission. It is submitted by the Monitoring Committee that these Courts and the Commission do not have any jurisdiction over these issues in view of the order passed by this Court. The learned Amicus will bring it to the notice of the Courts and the Commission that prima facie jurisdiction does not lie with them leaving it for the Courts to take a decision in the matter.”

Again on 27.11.2018, the Court, inter alia, passed the following order:—

“... The Monitoring Committee has brought to our notice that other Courts/Tribunals/Authorities including the State Consumer Commission and District and Sessions Judge are entertaining the petitions despite order passed by this Court. We have requested Mr. A.D.N. Rao to look into these cases. We reiterate that no Court or Tribunal or any other Authority shall look into these matters as well as the petitions which are pending before us.”

In view of the aforesaid, prima facie, we stay the operation of the order dated 23.01.2019 passed by the High Court of Delhi at New Delhi in LPA No. 6/2019 and **restrain the High Court to entertain any petition in connection with the matters relating to the Monitoring Committee, as these matters are to be heard by this Court only....**”

(Emphasis supplied)



2024:DHC:5216-DB



11. It is apparent from the perusal of the aforesaid order that no Court other than the Supreme Court can be approached against any order of any nature passed by the Monitoring Committee. In other words, all Courts excluding the Supreme Court are precluded from entertaining any petition or application pertaining to matters which are subject to the jurisdiction of the Monitoring Committee.

12. So far as the issue of alleged illegal taking over of possession by the DDA of the subject land is concerned, the said action appears to be intertwined with the decision of demolition. Thus, it would be open to the petitioner to raise the said grievance before the Supreme Court, in accordance with the aforesaid observations.

13. In that view of the matter, we have no hesitation in upholding the view taken by the learned Single Judge in the impugned order and affirm the observations therein. Consequently, the present appeal is dismissed granting liberty to the appellant to take recourse to appropriate remedies in accordance with law, if so advised, to challenge the order/Minutes of the Meeting dated 28th May, 2024 passed by the Monitoring Committee.

14. The pending applications, if any, also stand dismissed.

15. No order as to costs.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

July 12, 2024

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Signature Not Verified **LPA 506/2024**

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Signing Date: 23.07.2024
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Page 7 of 7