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

+ LPA 508/2024 & C.M.Nos.35717-35718/2024

DHANI RAM

..... Appellant

Through

Mr.A.K.Singh, Advocate with
appellant in person.

versus

GOVT .OF NCT OF DELHI & ORS.

..... Respondents

Through

Mr.Divyam Nandrajog with
Mkr.Prakhyat Gargasya and
Mr.Aman Wasan, Advocates for
GNCTD.
Mr.Apoorv Kurup, CGSC with
Mr.Nidhi Mittal, Advocate for UOI.
Ms.Mrinalini Sen, standing counsel
for DDA.
Mr.Mukesh Gupta, Advocate for
MCD.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

01.07.2024

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1. Present appeal has been filed by the appellant challenging the order dated 11th March, 2024 passed by the learned Single Judge of this Court in WP(C) 3370/2023, whereby the writ petition filed by the appellant was disposed of.
2. Learned counsel for the appellant states that the learned Single Judge had failed to provide a proper opportunity to the appellant to present his case.



3. He states that the learned Single Judge passed the impugned order relying on the status report filed by the MCD without even examining the action taken by the MCD on the scheduled demolition date of 20th and 21st July, 2023.

4. He states that MCD had cleverly and in order to misguide the learned Single Judge had filed the status report in which it was clearly mentioned that show cause notice and demolition orders were sent to the residents who are involved in unauthorized construction. He further states that the learned Single Judge could have asked for another status report from MCD regarding the demolition action taken and only then should have disposed of the matter.

5. A perusal of the impugned order reveals that MCD in its status report had stated that the appellant was himself booked for unauthorized construction on 27th November, 2019. The learned Single Judge disposed of the writ petition only after taking into account the status report and after coming to the conclusion that the appellant was himself booked for unauthorized construction.

6. Today during the course of arguments, learned counsel for the appellant states that the appellant has not carried out any unauthorised construction. He states that the appellant had purchased the flat and probably the alleged construction had been carried out prior to his purchase.

7. However, in the ground of appeal, there is no such averment. It has also not been averred in the present appeal that there was no unauthorized construction in the appellant's flat.

8. This Court is of the view that the issuance of high-prerogative writs is discretionary relief. No writ can be issued as a matter of right. The



petitioner who files a writ petition has to approach the Court with clean hands.

9. In the present case, there is a serious unrebutted allegation against the petitioner that he has carried out unauthorized construction. Consequently, neither the petitioner's writ petition nor the present appeal is maintainable. Accordingly, the same are dismissed along with the applications.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 01, 2024
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