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

+ W.P.(C) 12850/2023, CM APPL. 162/2024, CM APPL. 7573-74/2024, CM APPL. 42198/2024 & CM APPL. 42200/2024
S.S. AGARWAL HUFPetitioner

Through: Mr. Deepak Agarwal, Mr. Harshit Agarwal, Ms. Mukti Ghai and Mr. Varshangi, Advs.

versus

GOVT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Anuj Chaturvedi, SC for MCD/R-2.
Mr. Jeevash Nagarath, Mr. Aman Gupta, Mr. Akansh Pandey, Mr. Arjun Gaur and Mr. Rajat, Advs. for R-3 &4.
Mr. Anupam Srivastava, ASC with Mr. Deepak Jain, Mr. PL Mann, Mr. Sandeep Sharma and Mr. Rajinder, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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26.07.2024

1. The petitioner in the instant appeal prays for the following reliefs:-

" a) Issue a Writ, order or direction in the nature of Mandamus directing the Respondent No. 1 and Respondent No. 2 for taking action against encroaching the common passage area/fire exit area; and

b) Issue appropriate Writ , order or direction declaring the lease arrangement made by the Respondent No. 3 and Respondent No. 4, for using common passage/ fire exit for personal business activities in favor of Respondent No. 5, as void ab-initio; and

c) Issue any other Writ, Order or direction, which this Hon'ble Court may deem just, fit and proper in the facts and circumstances of the case.



d) Allow this Writ Petition in favour of the Petitioner with costs in adherence with the Judgment of the Hon'ble Supreme Court in Flex Ltd. Government of Tamil Nadu & Ors in Civil, Appeal No. 4862-4863 dated 17.09.2021."

2. The respondent-Corporation, in paragraph Nos.3 & 4 of its status report, has taken the following stand:-

*" 3. That it is respectfully submitted that in compliance of orders dated 03.01.2024 inspection of Units Namely P1 -0077, 0078, 0079, 0080, 0081, 0091, 0092, 0093, 0094 & 0095 of Plaza 1 of Central Square Complex, 20, Manohar Lal Khurana Marg, Bara Hindu Rao, Delhi-110006 was carried out by Sh. R.P. Gupta, Executive Engineer (B)-I, City S.P. Zone alongwith staff on 11.01.2024 at about 12:40 P.M. upto 01: 15 P.M. in the presence of Sh. Deepak Agarwal, AR of the petitioner and Ms. Aditi Tomar, Counsel for petitioners. During inspection it was noticed that the owner/occupiers of the aforesaid units has placed 02 doors to cover the common area. During inspection these 02 doors were found open and also no material/goods were found stacked in the common area. At the time of inspection a copy of completion plans for Block-D Plaza 1 were handed over to Ms. Aditi Tomar, counsel for the petitioner. Photographs taken during inspection on 11.01.2024 are annexed herewith as **Annexure-A(Colly)**. A copy of completion plan for Block-D Plaza 1 is also annexed herewith as **Annexure-B**.*

*4. That it is respectfully submitted that after inspection, the owners of aforesaid units visited the office of answering respondent and informed that they will themselves remove 02 doors affixed in the common area to avoid any controversy. In view of the submissions of owners, another inspection was carried out on 05.02.2024 by the field officials wherein it was noticed that the owners of aforesaid units have removed both the doors which were affixed in the common area. Photographs taken during inspection on 05.02.2024 showing removal of 02 doors are annexed herewith as **Annexure-C (Colly)**."*

3. Besides this, learned counsel appearing for the private respondents, has pointed out that the son of the petitioner was involved in litigation with respect to the same area before the civil court.

4. The Court, at this stage, is not concerned with those aspects. The status report which came to be filed, states that on 05.02.2024, on visit of the



officials on the field, it was noticed that the owners of the said units had removed the concerned doors.

5. The said position, however, is disputed by the learned counsel appearing for the petitioner and he submits that yesterday, he has filed some affidavit controverting the said position.

6. The nature of the controversy clearly relates to civil rights of the parties. Under the guise of alleged encroachment and purported violation of the extant rules and regulations, the writ court cannot start roving enquires and eventually divest itself from deciding core issues of greater importance pending for years. All sorts of violations cannot be possibly examined by the writ courts. The interference would depend upon the facts of the individual cases.

7. Looking at the nature of the controversy and the stand taken by the respondent-Corporation, the Court is not inclined to continue the instant writ petition, however, grants liberty to the petitioner to re-agitate the issue before the concerned authority if the stand taken by the respondent-Corporation in paragraph Nos.3 and 4 of its report is not adhered to. The petitioner has other alternate forum for ventilation of his grievance i.e., Special Task Force set up as per the directions of the Supreme Court. In any case, the petitioner can also file civil suit or can take all objections in accordance with law in pending civil suit.

8. With the aforesaid observations, the petition stands disposed of alongwith the pending applications.

PURUSHAINDR KUMAR KAURAV, J

JULY 26, 2024/P