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

+ **W.P.(C) 15409/2023**

SHRI PAL SINGH

.....Petitioner

Through: Mr. Shashank Rai, Mr. Om Prakash
Sapra, Mr. Rabindra Narayan Mishra,
Ms. Anushi Agrawal, Mr. Yash
Prakash Yadav, Mr. Saurabh Kumar
Pandey and Ms. Supriya, Advs.

versus

**GOVT OF NCT OF DELHI THROUGH LIEUTENANT
GOVERNOR & ORS.**

.....Respondents

Through: Mr. Shiven Varma, Adv. for GNCTD
for R-1 and 2.
Mr. Manish Srivastava, Mr. Moksh
Arora, Mr. Yash Srivastava and Ms.
Shiksha Jha, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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13.08.2024

1. The present petition has been filed by the petitioner seeking direction to the respondents to shift the transformer located abutting the plot of the petitioner at Khasra No. 25, Ibrahimpur, Sushant Vihar, Delhi-110036. As per the petitioner, the installation of the transformer in a close proximity with the petitioner's house has exposed him to an immense risk of life and property. According to him, he does not have any other efficacious remedy to ventilate his grievance and therefore, he has invoked the writ jurisdiction under Article 226 of the Constitution of India.



2. Learned counsel appearing for the respondent-DISCOM, at the outset, raises a preliminary objection regarding maintainability of the instant writ petition. While placing reliance on a decision passed by this Court in W.P. (C) 718/2020, he submits that the petitioner can resort to an alternate efficacious remedy. The Court, *vide* order dated 20.01.2020 in the aforesaid case, considered the prayer with respect to removal/relocation/transfer of a transformer from the property of the petitioner company therein and in terms of paragraph Nos.5 to 9 of the said decision, following directions came to be issued:-

“5. Hence, according to the aforesaid provision in case, the owner of a land raises objections in respect of the works to be carried out and shows sufficient cause, the District Magistrate or the Commissioner of Police may direct such work, support, etc. to be removed or altered.

6. Learned counsel for respondent No. 2 states that the advantage of the district magistrate dealing with the matter is that he is in a position to also suggest an alternate site for re-location of the transfer. He states that on shifting of the transformer in question, there has to be an alternate site and it cannot be removed forthwith as is sought to be urged by the petitioner.

7. In my opinion, the plea of learned counsel for respondent No. 2 has merits. The petitioner has an alternative remedy. It would be appropriate if the concerned district magistrate may deal with the plea of the petitioner.

8. Let the concerned District Magistrate/Divisional Commissioner treat the present writ petition as representation of the petitioner and pass an appropriate order within 12 weeks from today. An opportunity would also be given to the petitioner and respondent No. 2 an oral hearing.

9. With the above, the present petition stands disposed of. Pending application also stands disposed of.”

10. Learned counsel appearing for the petitioner distinguishes the order which is sought to be relied upon by the respondent on the ground that in the instant case, the transformer in question is situated on the adjacent land to



the petitioner. He, therefore, submits that he is not covered as per the provisions of Works of Licensees Rules, 2006 [**“Licensees Rules”**].

4. The Court in another W.P.(C) 9582/2024 *vide* order dated 16.07.2024, passed the following directions:-

“3. *In view of the aforesaid, the instant writ petition is disposed of with directions to the District Magistrate/Divisional Commissioner to treat this petition as a representation to have been submitted by the petitioner and to pass an appropriate order within a period of twelve weeks from the date of receipt of a copy of this order. Let a copy of the petition with all annexures be placed by the petitioner before the authority concerned.*

4. *Let an opportunity of hearing be also extended to all concerned.”*

11. The Court has also considered the provisions of Rule 3 of the Licensees Rules, which read as under:

“3. Licensee to carry out works --(1) A licensee may-

- (a) carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land;*
- (b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of any overhead line on any building or land or having been so fixed, may alter such support:*

Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government in this behalf, for carrying out the works:

Provided further that if at any time, the owner or occupier of any building or land on which any works have been carried out or any support of an overhead line, stay or strut has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer authorised may by order in writing direct for any such works, support, stay or strut to be removed or altered.



(2)When making an order under sub-rule (1), the District Magistrate or the Commissioner of Police or the officer so authorised, as the case may be, shall fix, after considering the representations of the concerned persons, if any, the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(3)Every order made by a District Magistrate or a Commissioner of Police or an authorised officer under sub-rule (1) shall be subject to revision by the Appropriate Commission.

(4)Nothing contained in this rule shall effect the powers conferred upon any licensee under section 164 of the Act.”

12. Rule 3(1)(b) of the Licensees Rules stipulates that if the owner or occupier of any building or land on which work is carried out has any grievance, he is entitled to approach the District Magistrate or Commissioner of Police. A meticulous scrutiny of the Licensees Rules would indicate that the said rules do not, explicitly or even impliedly, place any fetters on the aggrieved person to approach the concerned authority. The words ‘owner or occupier of the building or any land’ employed in Rule 3(1)(b) of the Licensees Rules will have to be given a wider connotation keeping in mind the underlying purpose of the provisions. The scheme of the Rules in question endeavours to provide grievance redressal mechanism owing to electric supply line or any other works being carried out by the licensee. Thus, if the said provision would not be construed to take in its sweep the occupiers of adjoining land, the same would undermine the effectiveness of the provision in question. The said approach would ensure that the remedial provision crafted to address the root cause of the dispute in the instant case may remain relevant in combating the issue at hand.

13. Admittedly, the petitioner is an occupier of the adjoining land and therefore, he cannot be outrightly shorn of his right to approach the District Magistrate. Any other narrower interpretation would lead to absurdity,



wherein, though being almost equally affected, the owner of the land would enjoy the right to approach the District Magistrate, whereas, the owner of the adjoining land would lack an opportunity to avail the said remedy. Notably, the order dated 20.01.2020 also records that the Court found merit in the argument put forth by respondent no.2 therein that the District Magistrate shall be in a better position to ascertain the alternative site where the transformer can be shifted. Thus, in light of the aforesaid, the argument of the petitioner is rejected.

14. Since the petitioner has an alternative remedy, therefore, the Court is not inclined to entertain the instant writ petition. Accordingly, the same is dismissed with a liberty to approach the aforesaid authority or to take any other remedy in accordance with law.

15. All rights and contentions of the parties are left open.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 13, 2024/p