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

+ **W.P.(C) 1507/2017 & CM APPL. 6868/2017**

MAYUR KUNJ RESIDENT WELFARE FORUM

REPRESENTED THR ITS PRESIDENT MR P

J B KHORANA SQN LDR (RETD)

..... Petitioner

Through: Dr. G. V. Rao, Sr. Advocate with
Mr. A. K. Upadhyay, Ms. Anu B and
Mr. G. Arudhra Rao, Advocates.

versus

LT GOVERNOR NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Tushar Sannu, Standing Counsel
with Mr. Devvrat Tiwari and
Mr. Drona Negi, Advocates for
R-2/MCD.
Mr. Biraja Mahapatra and Mr. Nalin
Hingorani, Advocates for R-3.
Mr. Arvind Kumar Gupta, Advocate
for R-8.
Ms. Aarushi Tiku, Advocate for R-9.

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

07.02.2024

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1. The present petition is filed under Article 226 of the Constitution with the following prayer: -

- (a) Issue a writ, order or direction in the nature of mandamus and direct the Respondent Authorities to take appropriate legal action to remove the illegal cremation ground and report the same to this Hon'ble Court;
- (b) Direct the Respondent authorities to formulate and place on



record strategy/ scheme to prevent cremation of illegal cremation ground hereinafter.

(c) Pass any such other or further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. The counsel for the petitioner stated that an unauthorised/illegal cremation ground named Chilla Gaon, Shamshan Bhummi has sprung-up in September 2016, on the river bank adjoining the main Delhi-UP Link Road which is affecting the integrity of the Yamuna River System and the flood plain. It is further stated that the said cremation ground is exactly 200 yards from 04 large residential societies in the Mayur Kunj Area namely, the Indian Express CGHS, All India Institute Medical Sciences (AIIMS) CGHS, Allahabad Bank CGHS and Nagarajuna CGHS (500 apartments). It is also stated that the unauthorised/illegal cremation ground is in the vicinity of East end Apartments having 1000 Apartments (4000 residents). It is prayed that appropriate directions be issued.

3. Mr. Arvind Kumar Gupta, Advocate who is impleaded as the respondent no. 8 referred the Joint Survey Report dated 24.06.2009 in which it is mentioned that in the area of 50 square yards, there is a permanent structure and also referred the reply under the RTI Act dated 18.02.2023 which is also reflecting the existence of the cremation ground at the site in question. The counsel for the respondent no. 8 stated that as the cremation ground is existing since long, as such there is no merit in the present petition.

4. The counsel for the respondent no. 9/DDA also filed counter affidavit, the relevant portion of which is reproduced as under: -

6. Accordingly, as regards the specific query put forth by this Hon'ble Court, the Answering Respondent submits as follows:



(a) It is submitted that the Subject Land falls in Khasra No.78min of Chiragah Janubi Revenue Estate. As per revenue records i.e. Estate Chiragh Janubi, the land of Khasra No. 78 is Government Land and in Column No.6 of Jamabandi "Makbuja Malik Nahar Sarki" has been entered.

(b) The Subject land was inspected on 06.03.2020 and it was found that a Crematorium is existing on the said land. A copy of the photographs taken during inspection are annexed herewith and marked as Annexure R-1 (Colly).

(c) It is submitted that as per the Master Plan-2021 and Zonal Development Plan of Zone- "O", the land use of the subject land is "River and Water Body". A copy of part of the Zonal Development Plan of Zone- "O" is annexed here with and marked as Annexure R-3. It is submitted that as per the approved Zonal Development Plan of Zone "O", the subject land is not earmarked for Crematorium/Cremation Ground.

5. It is reflecting that the land in question on which the cremation ground is stated to be in existence belongs to the respondent no.9/Delhi Development Authority. Accordingly, it is expected that the respondent no. 9 shall take appropriate action in respect of the cremation ground in accordance with law, rules and regulations as early as possible.

6. The present petition with these observations is accordingly, disposed of along with pending application.

DR. SUDHIR KUMAR JAIN, J

FEBRUARY 7, 2024

Sk/ak