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

+ **W.P.(C) 13265/2024**

AVNOOR SINGH AND ORS

.....Petitioners

Through: **Mr. Aditya Sharma, Advocate**

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD AND ANR

.....Respondents

Through: **Mr. Parvinder Chauhan, Ms. Aakriti Garg, Advocates with Mr. Vijay Kr. Maggoo (Law Officer), Mr. Pranav Siroha (Legal Asstt) , Mr. Himanshu Singhal (Legal Asstt.) for DUSIB**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 20.09.2024

CM APPL. 55408/2024 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

CM APPL. 55491/2024 (for impleadment)

4. Through this application, the Petitioner seeks to implead Petitioners No. 12 to 26 as parties to the present petition.
5. For the grounds and reasons stated therein, the application is allowed and the Petitioners No. 12 to 26 are impleaded as Co-Petitioners. Let the



amended memo of parties be filed within a period of three days from today.

6. Disposed of.

W.P.(C) 13265/2024 & CM APPL. 55407/2024 (for interim directions)

7. Through the instant petition, the Petitioners who are the occupants of Madanpur Khadar Dairy Colony seek to restrain the Respondents from demolishing their properties/ dairies.

8. A brief background leading to the filing of the present petition as presented by the counsel for the Petitioners is as follows:

8.1. The Petitioners are cattle farmers who were allotted plots by the Delhi Development Authority¹ in Madanpur Khadar Dairy Colony, which is purportedly an authorized area for cattle dairy farming. The Petitioners have continuously utilized the area since the allotment of land to them. They were granted leasehold rights by the DDA, which were subsequently affirmed by the Slum and JJ Department of the Municipal Corporation of Delhi as per their Policy. Under this Policy, the Petitioners were required to construct superstructures on their plots, both to protect the cattle and to fulfil the needs of rest and shelter for the animals.

8.2. Since the allotment, no development was carried out by the government, and no basic facilities were provided to the allottees, despite fees being regularly paid to the Slum and JJ Department. In these circumstances, between 1985 and 2000, the allottees constructed superstructures on their plots to meet their residential needs.

8.3. After the Delhi Urban Shelter Improvement Board Act, 2010,² was enforced, the Slum and JJ Department was replaced with Delhi Urban

¹ “DDA”

² “DUSIB Act”



Shelter Improvement Board,³ and it claimed to be the land-owning agency in respect of the said plots. Subsequently, DUSIB initiated action against the allottees for raising residential superstructures over the said plots and sent several show cause notices in this regard.

8.4. Subsequently, from June 2024, to July, 2024, eviction orders against the Petitioners were passed by the Deputy Director (CDF). Aggrieved by the said order, Petitioners preferred appeals to the Principal Director (CDF). However, through orders dated 22nd August, 2024, 30th August, 2024, and 04th September, 2024, the Principal Director ruled that the Petitioners did not hold any legal titles to the plots in question and had unlawfully carried out construction on the same.

8.5. On 18th September, 2024, a police officer visited the Petitioners' dairy farms, informing them would commence a demolition drive in Madanpur Khadar Dairy Colony from 23rd September, 2024, onwards.

9. In this context, counsel for the Petitioners argues that the orders passed by the Principal Director (CDF) were received by the Petitioners only after 27th August, 2024. The Petitioners are currently in the process of filing appeals against the impugned orders before the Hon'ble Lieutenant Governor of Delhi, under Section 45 of the DUSIB Act. He argues that demolition at this stage would effectively nullify the Petitioners' statutory right of appeal, as such an action would be irreversible. The counsel stresses that the demolition should be deferred until the Lieutenant Governor's delivers its decision, ensuring the Petitioners have a fair opportunity to pursue their legal remedies. Moreover, he contends that the impugned orders contravene the order dated 28th August, 2024 passed by the Division Bench

³ "DUSIB"



of this Court in W.P.(C) 13236/2022.⁴ In that decision, the Division Bench expressly noted that issues of unauthorized construction and misuse of allotted cattle sheds in the Madanpur Khadar Dairy Colony should be addressed by the relevant statutory authorities strictly in accordance with the law. Therefore, the proposed demolition action is inconsistent with the directions of the Court, which requires due process to be followed before such drastic measures are taken.

10. Mr. Chauhan, counsel for the DUSIB submits that due to the logistical requirements for the proposed demolition, including the need to requisition police forces, the Respondents plan to carry out the demolition in a single, coordinated operation. He, therefore, requests the should the Court accept Petitioner's request, a clear cut-off date should be set to enable the Petitioners to exhaust their legal remedies before the demolition is executed.

11. The Court has carefully considered the facts and contentions presented by both parties. Although the demolition orders were rendered on different dates for the Petitioners, counsel for the Petitioners asserts that the most recent order being dated 04th September, 2024. The Petitioners' core grievance is that the 30-day period for filing an appeal under Section 45 of the DUSIB Act has not yet expired. With DUSIB's planned demolition set for 23rd September, 2024, the Petitioners contend that proceeding with the demolition before the appeal period lapses would violate their statutory right to challenge the impugned orders.

12. In the considered opinion of the Court, the Petitioners must be afforded a reasonable opportunity to avail themselves of their statutory remedies to challenge the demolition orders. Accordingly, it is directed that

⁴ titled as *Sunayana Sibal & Ors v. Government of NCT of Delhi & Ors.*



the proposed demolition and sealing action shall not proceed until 03rd October, 2024. During this period, the Petitioners are expected to exercise their right of appeal and seek interim relief before the Hon'ble Lieutenant Governor of Delhi's Court, in accordance with the law.

13. It is made clear that the above directions are issued only to enable the Petitioner to avail their statutory remedy as provided under the DUSIB Act and this order shall not be construed as the Court's expression on the merits of the case or any of the arguments advanced in the petition. All rights and contentions of the parties are left open.

14. With the above directions, the present petition, along with pending applications, if any, is disposed of.

SANJEEV NARULA, J

SEPTEMBER 20, 2024/ab