



\$~1

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

+ W.P.(C) 13745/2024, CM APPL. 57543/2024 & CM APPL. 57544/2024

LALIT KUMAR

.....Petitioner

Through: Mr. Atul Varma and Mr. Avanish Kumar, Advocate alongwith petitioner in person.

versus

MUNICIPAL COMMISSIONER
OF DELHI AND ORS

.....Respondents

Through: Mr. Nikhil Palli, Advocate for MCD.

Ms. Avni Singh, Panel Counsel with Ms. Prapti Singh, Advocate for R-4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

05.11.2024

1. By order dated 30.09.2024, it was recorded as follows:

“1. By way of this petition under Article 226 of the Constitution, the petitioner raises a grievance about alleged illegal and unauthorised construction being raised by respondent No. 5, in land measuring 4 Bigha, 16 Biswa at Khasra No. 22/2, “surrounded on three sides by District Park”, Madan Pur Khadar, Sarita Vihar, New Delhi-110076.

2. Ms. Meenakshi Jain, learned counsel, enters appearance on behalf of respondent No. 5, and submits that this petition is motivated and mala fide. She submits that another writ petition, in public interest, [W.P.(C) 6721/2024] was filed by Mr. Sudhir Bidhuri, in which the Division Bench noted the submission of Delhi Development Authority and MCD that no illegal unauthorised construction or encroachment was carried out on public land. The writ petition was, therefore,



dismissed.

3. Ms. Jain has handed over a copy of the voter details of Mr. Sudhir Bidhuri, which shows that his address is also the same as the address of the petitioner in the present writ petition. She submits that, in both litigations, the petitioners were represented by the same learned counsel, and contends that the factum of filing of the earlier writ petition and the order passed therein have been deliberately suppressed in the present writ petition. Order of the Division Bench dated 10.05.2024, and a copy of the Voter Identity Card, handed over by Ms. Jain, are taken on record.

4. Mr. Atul Verma, learned counsel, for the petitioner submits that the petitioners in the two cases are different and that the public interest litigation was related to construction on the District Park whereas the present litigation relates to construction surrounded by the District Park.

5. For the present, the petitioner is directed to file an affidavit, stating whether there is any relationship or acquaintance between him and Mr. Sudhir Bidhuri, whether he has knowledge of the earlier litigation instituted by Mr. Sudhir Bidhuri, and the provenance of the annexures included with the present writ petition. The petitioner will also file photographs of the site in question and a site plan, to appreciate the distinction being drawn between the construction on the District Park and the construction surrounded by the District Park. Affidavit of the petitioner be filed within one week from today.

6. Registry is also directed to place the record of W.P.(C) 6721/2024, alongwith annexures thereto, before this Court, so that the Court can adjudicate the allegation of deliberate suppression.

7. Mr. Nikhil Palli, learned Additional Standing Counsel, appearing for Municipal Corporation of Delhi ["MCD"] on advance notice, submits on instructions, that sealing orders have been passed in respect of the property in question on 03.07.2023 and 20.08.2023 and a vacation notice has been issued to the occupants of the property on 06.10.2023. He submits that the said orders will be implemented upon availability of the necessary police force.

8. It is made clear that the pendency of this petition will not come in the way of MCD or the other statutory authorities taking such action as available to them in law in respect of any unauthorised construction, or to the remedies available to respondent No. 5 or any owners/occupants of the property against such proposed action.

9. Petitioner is directed to remain personally present in the Court on the next date of hearing.



10. List on 05.11.2024.”

2. Pursuant to this order, the petitioner has filed an affidavit dated 08.10.2024, in which it is stated that he works as a driver and lives in H.No. C-567, Block-C, Camp Society, Taj Pur, PO Taj Pur, Distt. South, Delhi-110044 as a tenant of one Mr. Surender Kumar. Mr. Surender Kumar is the brother of Mr. Sudhir Bidhuri, who had filed a Public Interest Litigation [W.P.(C) 6721/2024] in respect of the same construction. However, the petitioner herein has denied any familiarity with Mr. Sudhir Bidhuri or knowledge of the prior litigation instituted by him.

3. As far as the substantive issue raised by the petitioner is concerned, Mr. Nikhil Palli, learned counsel for the Municipal Corporation of Delhi [“MCD”] states that, as recorded in the aforesaid order, sealing orders dated 03.07.2023 and 20.08.2023 have already been passed in respect of the unauthorised construction on the subject property and a vacation notice has been issued on 06.10.2023. In the meanwhile, he submits that respondent No. 5 has made an application for regularisation of the construction which is under consideration by the MCD, and necessary orders will be passed within a period of four weeks from today. He states that, if the regularisation application is rejected, the MCD will take consequential steps in respect of the unauthorised construction within a period of eight weeks thereafter, subject to availability of police force.

4. In view of the above submissions on behalf of the MCD, no further orders are required in this writ petition, which stands disposed of.

5. It is made clear that the aforesaid submissions are recorded without prejudice to the rights and contentions of any owners/occupants of the



subject property, including respondent No. 5, whose rights and remedies, available in law, are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements.

6. The petition, alongwith the pending applications, is disposed of with the aforesaid observations.

PRATEEK JALAN, J

NOVEMBER 5, 2024/MR/