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

+ **W.P.(C) 15287/2024 & CM APPL. 64236/2024**

**KHERA GARHI COLONY RESIDENT WELFARE ASSOCIATION
& ANR.Petitioners**

Through: **Mr. Anand Yadav, Ms. Anita Tomar,
Advocates**

versus

UNION OF INDIA & ANR.Respondents

Through: **Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Gokul Sharma, Advocate for
UOI/R-1
Mr. Prashant Manchanda, ASC for
GNCTD with Ms. Nancy Shah, Ms.
Nandini Aggarwal, Ms. Isha Baloni,
Advocates
Mr. Mukesh Gupta, SC for MCD with
Mr. Arnav Gupta, Mrs. Shashi Gupta,
Advocates for R-3**

**CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA**

ORDER

% 05.11.2024

1. Petitioner No. 1, Resident Welfare Association of Khera Garhi Colony (Khasra No. 63/23), has approached this Court by way of a representative petition, filed on behalf of the members of the Association. Petitioner No. 2 is a member as well as the General Secretary of Petitioner No. 1. The list of the affected members of the Association is attached as Annexure P-2 to the writ petition. Through this petition, the Petitioners seek



directions to restrain the Respondents from demolishing the homes of the Association's members, located in Khera Garhi Colony within the Revenue Estate of Village Khera Kalan, Delhi.

2. Petitioner No. 1 urges that all the constituent members of the Petitioner Association are from weaker section and poor strata of the society and have constructed their houses in area measuring 25-30 sq. yds. The Petitioners assert that as migrants to Delhi, the members were unable to secure housing from government authorities, which, according to them, exercise exclusive control over the development of colonies and construction of residential accommodations in Delhi.

3. The Petitioners, in their petition, provide a background as to how migrants gradually came to occupy government land in Delhi, establishing JJ clusters and unauthorized colonies. They assert that this pattern contributed to the creation of several unauthorized settlements in the Revenue Estate of Village Khera Kalan, including areas such as Khera Kalan and Khera Garhi. However, they emphasize that the members of Petitioner No. 1 chose not to occupy government land or establish a JJ cluster. Instead, they purchased plots and constructed homes in Khera Garhi Colony, which was developed by the family of one Shri Surender Singh, the recorded owner of Khasra No. 63/23.

4. Against this backdrop, Petitioner No. 1 has approached this Court, expressing concern over a potential demolition action that may be initiated by the State Authorities against the homes of its members. The Petitioners assert that all 30 members, as listed in Annexure-2, have submitted individual applications dated 25th September, 2024 to the Deputy Commissioner of the Municipal Corporation of Delhi, requesting



regularization of their constructions. Despite these applications, they claim that no response has been received, and the requests remain pending without any resolution.

5. In the above background, the Petitioners have filed the instant petition, seek the following reliefs:

- “a) Restrain Respondents from demolishing houses of members of Petitioner No.1, situated in the colony known as Khera Garhi Colony, Delhi, comprising in Khasra No. 63/23 situated in the Revenue Estate of Village Khera Kalan, Delhi*
- b) Restrain Respondents from dispossessing and interfering in the possession of plots/properties of members of Petitioner No.1, situated in the colony known as Khera Garhi Colony, Delhi, comprising in Khasra No. 63/23 situated in the Revenue Estate of Village Khera Kalan, Delhi.*
- c) any other or further writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case be also issued in favour of the Petitioners and against the Respondents.”*

6. The Court has considered the submissions made by the Petitioner, but remains unpersuaded. In the opinion of the Court, such a petition is not maintainable. If the Petitioners have engaged in unauthorized construction on their properties, it is within the jurisdiction of the State Authorities to take appropriate legal action to address such violations. The Court cannot, therefore, issue a blanket order protecting Petitioner No. 1 and its members from any potential action against unauthorized constructions. Judicial intervention in the form of a pre-emptive protection order would effectively undermine the statutory powers vested in the municipal and state authorities to enforce building regulations. Such regulatory mechanisms are essential for maintaining compliance with building bye-laws and statutory regulations.

7. Furthermore, although the members of Petitioner No. 1 have



submitted applications seeking regularization, the Court is of the view that such applications do not prevent the Respondent Authorities from proceeding with necessary action against any unauthorized constructions. The existence of these applications does not confer immunity from enforcement; rather, it remains within the purview of the authorities to assess and act upon unauthorized developments as deemed appropriate. The members, if advised, may continue to pursue their respective applications for regularization through the proper channels. However, they cannot, under the guise of these pending applications, seek judicial intervention to shield themselves from potential regulatory actions that address the legality of their constructions.

8. It is also pertinent to note that the petition lacks specific details regarding the alleged unauthorized constructions and provides no particulars concerning the areas for which regularization is sought. Without such essential information, the Court cannot meaningfully assess the nature and extent of the claimed regularization. The application for regularization dated 25th September, 2024, submitted by the members, is insufficient to form a basis for the Court to issue a writ of mandamus restraining the Respondents from acting against unauthorized constructions. This Court's intervention requires a clear and substantiated case, and absent precise details, the petition does not justify the relief sought.

9. At this juncture, Mr. Mukesh Gupta, Standing Counsel for MCD, apprises the court that as on date, none of the members' properties have been booked. He assures that in case any such action is taken, the same shall be in accordance with law and in compliance with the procedure provided under the Delhi Municipal Corporation Act, 1957.



10. In light of the aforesaid circumstances, in the opinion of the Court, the present writ petition is devoid of merits and accordingly, the same is disposed of along with pending application.

SANJEEV NARULA, J

NOVEMBER 5, 2024/ab