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

+ **W.P.(C) 16472/2024**

RAJESH KUMAR SHARMA

.....Petitioner

Through: Mr. Girish Kumar Sharma and Mr.
Ajaya Kumar, Advs.

versus

DEPUTY COMMISSIONER (SOUTH ZONE) MCD & ANR.

.....Respondents

Through: Mr. Kapil Dutta with Mr. Vansh
Luthra and Mr. Nitish Dubey,
Advocates for MCD.
Mr. Ankit Jain with Mr. Prins Kumar
and Mr. Rishabh Jain, Advocates for
Preeti Vohra.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

29.11.2024

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1. The present Public Interest Litigation ('PIL') has been filed seeking a direction to Deputy Commissioner (MCD, South Zone) who has been arrayed as Respondent No. 1 to take physical possession of park in Sector B, Pocket I, Vasant Kunj, New Delhi 110070 and to remove all unauthorized structure and extension constructed by the flat owners and office bearers of the Resident Welfare Association ('RWA') of Sector-B, Pocket I, Vasant Kunj, New Delhi-110070.



2. It is stated in the petition that present and past office bearers of RWA of Sector-B, Pocket I, Vasant Kunj had constructed an unauthorized office of the RWA in the area designated as park and the same belongs to Delhi Development Authority ('DDA'). It is further stated that present and past office bearers of RWA have carried out unauthorized construction/extension in their individual flats, against the sanction building plan of DDA because of which other residents of the colony as well are carrying out unauthorized construction/extension in their own flats against which, petitioner had made several representations/complaints to MCD Assistant Engineer (South Zone) and Deputy Commissioner (South Zone) but no action has been taken till date.

3. The matter was listed on 28th November, 2024 wherein Mr. Ankit Jain, learned counsel for Ms. Preeti Vohra, one of the affected parties, raised a preliminary issue on maintainability of the petition. He brought on record facts, which evidenced that the present petition had been filed on behest of the builder with whom RWA has a pending dispute which is subject matter of W.P (C) No. 11283/2024. He stated that the Petitioner has made a categorical assertion in the petition that he owns a property in Sector B, Pocket 1, Vasant Kunj, New Delhi 110070. However, in reality, the said piece of land belongs to M/s RR Texknit LLP, and the Petitioner has no title rights in the said property. He stated that in fact the Petitioner has been creating law and order issues in the society and non-disclosure of his personal conflict with the residents of the society is a material suppression.

4. He stated that non-disclosure of the conflict between the Petitioner and the residents of the society falsifies the affirmation made on oath in the affidavit filed in support of the petition, wherein paragraph 4 reads as under:



“4. I petitioner has no personal interest in the litigation and neither myself nor anybody in whom I am interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public. This petition is not guided by self-gain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.”

(Emphasis Supplied)

5. Learned counsel for the Petitioner at the hearing dated 28th November, 2024 fairly stated that the Petitioner had not disclosed the pendency of W.P (C) No. 11283/2024 to the counsel and hence this fact was not disclosed/pleaded in this PIL.

6. In these facts, considering the prerogative nature of the jurisdiction exercise by this Court in Public Interest Litigation, this court passed a direction against the Petitioner mandating his personal presence.

7. In compliance with the directions issued vide order dated 28th November 2024, the Petitioner is personally present before this Court.

8. In reply, learned counsel for the Petitioner fairly admits that there is a parcel of land in this Pocket, which belongs to M/s RR Texknit LLP and the said LLP has passed a resolution appointing the Petitioner as an authorized representative to carry on construction at the said land. He also admits that the said LLP and the Petitioner herein are affected by the W.P (C) No. 11283/2024, wherein the RWA had challenged the right of the said LLP to undertake construction activity.

9. In the considered opinion of this Court, the non-disclosure of the W.P (C) No. 11283/2024 is not bonafide. In addition, the averment made by the Petitioner at paragraph 4 of its affidavit filed in the support of the present PIL is untrue as it is evident that the present petition has been filed as a counterblast against the officer bearers of the RWA.



10. We accordingly find that the Petitioner herein is not entitled to maintain this PIL as it is motivated and not in public interest. The same is accordingly dismissed along with the pending applications.

MANMOHAN, CJ

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 29, 2024/hp