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

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Date of Decision: 06.02.2025

% **W.P.(C) 4911/2024, CM APPLs. 20088/2024 & 41585/2024**

SULTANPUR ESTATE RESIDENTS ASSOCIATIONPetitioner

Through: Ms.Smita Maan, Adv.

versus

GOVERNMENT OF NCT OF DELHIRespondent

Through: Mr. Shiven Varma, Adv. for R-1, 3 & 7.

**Mr.Rajesh Yadav, Sr.Adv, with
Mr.Vikas Mishra, Mr.Kartik
Nagarkatti and Mr.Krishna Dev
Yadav, Advs for R-9.
SI Sachin Panwar, PS Fatehpur Beri.**

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)

1. Heard Ms. Smita Mann, learned counsel appearing on behalf of the petitioner, learned counsel representing the Municipal Corporation of Delhi and Mr.Rajesh Yadav, learned senior counsel representing respondent no.9.
2. Pursuant to our order dated 04.04.2024, an affidavit has been filed by the Executive Engineer of the area concerned of the Municipal Corporation of Delhi (MCD), stating therein that on inspection and referring to the record, status of the subject land was ascertained according to which, the



property has been identified as property situated opposite Farm no.1, Sultanpur Estate, Chhatarpur, New Delhi. It has also been stated that as per the record, the subject land falls in Village Sultanpur, which was urbanised *vide* notification dated 20.11.2019. Further, on inspection, unauthorised construction in the shape of erection of boundary wall was found along with installation of gate and laying of roads, which according to the Municipal Corporation of Delhi (MCD) was done without obtaining prior permission or the sanction from the MCD.

3. It is also stated therein that no plotting as alleged in the writ petition has been noticed at the subject land. The relevant assertions made in the affidavit can be found in paragraph no.4 thereof , which is extracted herein below:-

“4. That on inspection and referring to the record, the status as ascertain in respect of the subject land is detailed herein below:

a. On inspection the aforesaid subject land / property has been identified as property opp. Farm No. 1, Sultanpur Estate, Chhattarpur, New Delhi.

b. As per record, the said subject land falls / situated in Village Sultanpur, Mandi Road, New Delhi, which is already urbanized vide notification bearing No. F.7(128) DALB/2019/000580156/14600-15 dated 20/11/2019.

c. On inspection of the aforesaid identified property / subject property unauthorized construction in the shape of erection of boundary walls, installing of gate and laying roads have been noticed without obtaining any prior permission / sanction from Answering Respondent - MCD.

d. During the said inspection no plotting as alleged has been noticed at the subject land / identified subject property.”

4. Learned counsel representing respondent no.9 has however, submitted



that except for laying a path internally within the boundary of a piece of land admeasuring 8000 sq.yds., nothing has been done; neither is there any intention on the part of respondent no.9 to undertake any kind of development. It has also been stated on behalf of the respondent no.9 that for fencing an urbanised area with a boundary wall of four feet height, no permission under any law is required to be taken from any authority of the MCD.

5. Our attention has been drawn by the learned counsel representing the petitioner to the provisions contained in Sections 312 and 313 of the Delhi Municipal Corporation Act, 1957 which are extracted herein below:-

“312. Owners, obligation when dealing with land as building sites.

- If the owner of any land utilises, sells, leases out or otherwise disposes of such land for the construction of buildings thereon he shall lay down and make a street or streets giving access to the plots into which the land may be divided and connecting with an existing public or private street.

313. Lay-out plans.

(1) Before utilising, selling or otherwise dealing with any land under section 312, the owner thereof shall send to the Commissioner a written application with a lay-out plan of the land showing the following particulars, namely:—

(a) the plots into which the land is proposed to be divided for the erection of buildings thereon and the purpose or purposes for which such buildings are to be used;

(b) the reservation or allotment of any site for any street, open space, park, recreation ground, school, market or any other public purpose;

(c) the intended level, direction and width of street or streets;

(d) the regular line of street or streets;

(e) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting street or streets;

(2) The provisions of this Act and the bye-laws made thereunder as to width of the public streets and the height of buildings abutting thereon,



shall apply in the case of streets referred to in sub-section (1) and all the particulars referred to in that sub-section shall be subject to the sanction of the Standing Committee.

(3) Within sixty days after the receipt of any application under sub-section (1) the Standing Committee shall either accord sanction to the lay-out plan on such conditions as it may think fit or disallow it or ask for further information with respect to it.

(4) Such sanction shall be refused—

- (a) if the particulars shown in the lay-out plan would conflict with any arrangements which have been made or which are in the opinion of the Standing Committee likely to be made for carrying out any general scheme of development of Delhi whether contained in the master plan or a zonal development plan prepared for Delhi or not; or*
- (b) if the said lay-out plan does not conform to the provisions of this Act and bye-laws made thereunder; or*
- (c) if any street proposed in the plan is not designed so as to connect at one end with a street which is already open.*

(5) No person shall utilise, sell or otherwise deal with any land or lay-out or make any new street without or otherwise than in conformity with the orders of the Standing Committee and if further information is asked for, no step shall be taken to utilise, sell or otherwise deal with the land or to lay-out or make the street until orders have been passed upon receipt of such information:

Provided that the passing of such orders shall not be in any case delayed for more than sixty days after the Standing Committee has received the information which it considers necessary to enable it to deal with the said application.

(6) The lay-out plan referred to earlier in this section shall, if so required by the Standing Committee, be prepared by a licensed town planner.”

6. Learned senior counsel representing respondent no.9 has stated that no such activity as spelt out in Sections 312 and 313 of the Delhi Municipal Corporation Act, 1957 shall be undertaken by respondent no.9 except after seeking approval, etc which may be required in terms of the provisions contained in the Delhi Municipal Corporation Act, 1957 including Sections 312 and 313 of the said Act.



7. The aforesaid statement made by learned senior counsel representing respondent no.9 is hereby noted.

8. Apart from the aforesaid statement made on behalf of respondent no.9, we may also extract the averments made in paragraph nos.8.4 and 8.5 of the short counter affidavit filed on behalf of respondent no.9:-

“8.4 The Answering Respondent categorically states and submits that no illegal or unlawful activities whatsoever are being carried out on the Answering Respondent's Land, whether in terms of alleged carving out of an illegal colony, alleged plotting or illegal or unauthorized construction activities being carried out as part of illegal colonization as alleged by the Petitioner, or otherwise.

8.5 No plotting activities or activities for segregation of the Answering Respondent's Land into smaller parts is being carried out by the Answering Respondent on the Answering Respondent's Land. The alleged Site Plans annexed by the Petitioner at pages 44, 73, 77, 82, 86, 93, 97, 101, 105, 109 and 113 of the Petition are completely false, fabricated and misleading, and do not represent the factual situation of the Answering Respondent's Land. The said alleged Site Plans are self-created and self-serving documents manufactured by the Petitioner to further its false narrative, and deliberately mislead this Hon'ble Court.”

9. In view of the aforesaid, so far as the apprehension of the petitioner raised in this petition is concerned, the same stands allayed for two reasons, firstly, the land in question already stands urbanised and secondly, a statement has been made on behalf of respondent no.9 that no development of the land shall be undertaken without seeking the requisite approvals, etc. as per the requirement of law including the Delhi Municipal Corporation Act, 1957.

10. Learned senior counsel representing respondent no.9 at this juncture has submitted that in view of there being no requirement of seeking any



approval for raising a boundary wall of four feet height, the demolition undertaken by the MCD of the boundary wall raised by respondent no.9 was illegal and therefore, they may be permitted to erect the said fence at their own cost.

11. As to whether or not, there is any requirement of seeking any approval or permission etc. for fencing a newly urbanised piece of land with a four feet high boundary wall, is not the issue which engages our attention in this writ petition and accordingly, we provide that in case, respondent no.9 intends to raise the fence, it may intimate the same to the MCD which may consider granting its no objection to the same, if it is permissible under law. In this regard, if any such application is made by respondent no.9, the same shall be considered and an appropriate decision shall be taken by the MCD within two weeks thereafter.

12. Accordingly, the writ petition stands disposed of with the aforesaid terms.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

FEBRUARY 6, 2025/MJ