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

+ **W.P.(C) 352/2025**

COLONEL AJAY YADAV & ANR.

.....Petitioners

Through: Mr. Abhik Chimni, Ms. Pranjal Abrol, Mr. Maarooof, Mr. Gurupal Singh and Ms.Shreya Bajpai, Advocates.

versus

**GOVERNMENT OF NATIONAL CAPITAL
TERRITORY OF DELHI & ORS.**

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing Counsel with Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Mr. Mayank Madhu and Mr. Sami Sameer Siddiqui, Advocates for Respondent No.1/GNCTD.

Mr. Kapil Dutta, Advocate for Respondent No.2/MCD.

Mr. Tushar Sannu, Advocate for Respondent No.3/DDA.

Mr. Satya Ranjan Swain, SPC with Mr. Rudra Paliwal, GP and Mr. Kautilya Birat, Advocate for Respondent No.5/UOI.

Mr. Anurag Ahluwalia, Senior Advocate with Mr.Aakash Sehrawat and Mr. Pushant Sehrawat, Advocates for Respondent No.6.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

20.01.2025

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CM APPL. 1743/2025 and 1744/2025

1. Exemptions allowed, subject to all just exceptions.
2. Applications stand disposed of.



W.P.(C) 352/2025 and CM APPL. 1742/2025

3. This writ petition is preferred on behalf of the Petitioners under Article 226 of the Constitution of India seeking the following reliefs:

“1. Issue a Writ/Order/Direction restraining any party, including the Respondents from allowing or effecting any development/construction activities at Khasra no. 1230/2 (New) admeasuring 6 bighas and 7 biswa in Sector-B, Pocket-1, Vasant Kunj;

2. Issue a Writ of Mandamus or any other Writ/Order/Direction restraining Respondent No. 1-3 from granting any further Sanction or approval with respect to any development over the Subject Property, being land situated at Khasra No. 1230/2 (New) admeasuring 6 Bighas and 7 Biswa situated in Sector-B, Pocket-1 in Vasant Kunj Housing Scheme, New Delhi;

3. Issue a Writ/Order/Direction setting aside sanction dated 13.05.2024 granted by the Respondent No. 2 with respect to the development over the Subject Property being land situated at Khasra No. 1230/2 (New) admeasuring 6 Bighas and 7 Biswa situated in Sector-B, Pocket-1 in Vasant Kunj Housing Scheme, New Delhi;

4. Issue a Writ of Mandamus or any other Writ/Order/Direction setting aside the Minutes of the 368th Screening Committee Meeting dated 22.04.2019, and 370th Screen Committee Meeting dated 17.06.2019 approving the grant of sanction in respect of the subject property, being land situated at Khasra No. 1230/2 (New) admeasuring 6 Bighas and 7 Biswa situated in Sector-B, Pocket- 1 in Vasant Kunj Housing Scheme, New Delhi;

5. Issue a Writ of Mandamus or any other Writ/Order/Direction setting aside the decision of the Expert Appraisal Committee dated 29.11.2024 granting conditional clearance to Respondent No. 4 for construction of a Housing Complex at Subject Property being land situated at Khasra No. 1230/2 (New) admeasuring 6

6. Bighas and 7 Biswa situated in Sector-B, Pocket-1 in Vasant Kunj Housing Scheme, New Delhi;

7. Pass an order restraining the Respondent 6 to 15 from creating any third party interest in the subject property;”

4. At the outset, Mr. Ahluwalia, learned Senior Counsel appearing on behalf of Respondent No.6 and Mr. Kapil Dutta, learned counsel for MCD take preliminary objections to the maintainability of this writ petition on



multiple grounds. It is submitted that the prime grievance of the Petitioners is with respect to grant of sanction in respect of subject property bearing Khasra No. 1230/2 (New) admeasuring 6 Bighas and 7 Biswa situated in Sector-B, Pocket-1 in Vasant Kunj Housing Scheme, New Delhi, for which there is a statutory remedy under Section 347B of the Delhi Municipal Corporation Act, 1957 ('DMC Act') and in support rely on the judgment of the Division Bench of this Court in ***Paardarshita Public Welfare Foundation (NGO) v. Municipal Corporation of Delhi and Ors., W.P.(C) No. 14193/2024*** decided on 05.11.2024. Mr. Ahluwalia further submits that there are material concealments and misrepresentations in the writ petition. Petitioners are members of Vasant Kunj Residents Welfare Association ('RWA'), Sector B, Pocket 1 and the RWA has already filed a writ petition being W.P.(C)11283/2024 before this Court against Respondent No. 6 challenging the sanction plan by MCD. In an application filed under Order I Rule 10 CPC by the RWA for impleading Ridge Management Board ('RMB') and Ministry of Environment, the RWA has already raised the grievance raised in this petition that subject property is situated in the Morphological Ridge Area of Delhi, which is a protected eco-sensitive zone and any construction or development activity in such an area requires mandatory clearance from the Supreme Court on recommendation of RMB. Once RWA has filed a petition laying a challenge to the sanction granted by MCD, Petitioners cannot raise the same issues in a fresh petition and the intent clearly is forum hunting.

5. It is further argued by Mr. Ahluwalia that in W.P.(C)11283/2024, Court had declined to grant interim order against the construction carried out by Respondent No.6 and this is evident from paragraph 4 of order dated



11.09.2024 and being fully aware of this order, Petitioners seek a similar restraint order circuitously by this petition. Mr. Dutta, learned counsel for MCD adds that there is concealment inasmuch as Petitioners have not even disclosed in this writ petition that in W.P.(C)11283/2024 filed by the RWA of which Petitioners are members, similar reliefs were sought or that Court declined to stay the alleged unauthorized construction and on this ground alone, writ petition deserves to be dismissed with costs.

6. Mr. Chimni, learned counsel for the Petitioners urges that there is no concealment inasmuch as W.P.(C)11283/2024 has been filed by the RWA and there is no legal bar or embargo in individual members of an RWA filing separate writ petitions to ventilate their genuine grievances. Insofar as the objection of alternate statutory remedy against the sanction granted by MCD with respect to the subject property is concerned, it is argued that this Court has been entertaining writ petitions of similar nature and interim stay orders have also been granted against unauthorized construction and in this context, relies on the judgment of this Court in ***Ashok Kumar Tanwar v. Union of India and Others, 2011 SCC OnLine Del 5733.***

7. Having heard learned counsel for the Petitioners, learned Senior Counsel for Respondent No.6 and other counsels representing the official Respondents, this Court is of the view that there is merit in the preliminary objections raised by the Respondents. First and foremost, if the Petitioners are aggrieved by grant of sanction by MCD in respect of the subject property, remedy lies before the Appellate Tribunal, MCD under Section 347B of the DMC Act and in this context, Respondents have correctly alluded to the judgment of the Division Bench in ***Paardarshita Public Welfare Foundation (NGO) (supra).*** Reliance by Mr. Chimni on the



judgment of this Court in *Ashok Kumar Tanwar (supra)* is wholly misconceived. In the said case, Petitioner had alleged unauthorized construction with respect to accommodation for Supervisors etc. of DGBR at Naraina on land falling in Central Ridge Area. From the facts before the Court it had clearly emerged that no clearance was sought from the RMB and the Supreme Court through Central Empowered Committee ('CEC') for carrying out the construction and on the contrary CEC had directed BRO to stop the ongoing construction work and in light of this, Court had restrained further construction till necessary clearance was obtained, as required. In contrast, in the present case, it is an admitted case of the Petitioners that CEC has taken cognizance of Petitioner No.1's representation dated 14.10.2024 and vide notice dated 25.10.2024 directed convening of a meeting in this behalf between the officials of MCD, Ministry of Forest, Environment and Climate Change and DDA etc. CEC is yet to take a decision in the matter and even on this score, this writ petition is premature.

8. Clearly, Petitioners have raised two broad issues in this writ petition i.e. construction of the subject property in a morphological ridge without clearance of the Supreme Court and RMB and that the sanction granted by MCD vide letter dated 13.05.2024 with respect to the subject property falls foul of Clause 3.2.4 of Notification dated 04.07.2018, issued in exercise of powers conferred under Section 57(1) of the Delhi Development Act, 1957. Both these issues have been raised by the RWA of which the Petitioners are members in W.P.(C)11283/2024 and in which Court declined to grant interim relief. To my mind, Petitioners are only forum hunting by filing the present writ petition being well-aware of the earlier writ petition and the application filed therein raising a ground that the subject property of



Respondent No.6 falls in the Morphological Ridge Area of Delhi. Moreover, as rightly pointed out on behalf of the Respondents, Petitioners have failed to disclose that in W.P.(C)11283/2024 interim relief of stay against the alleged unauthorized construction was declined by the Court vide order dated 11.09.2024. It is the first principle of writ jurisdiction that a person must come to Court with clean hands. For reasons best known to the Petitioners, they have not disclosed material facts and the writ petition is only an attempt to seek interim relief, declined in W.P.(C) 11283/2024.

9. This Court sees no reason to entertain this writ petition for the reasons stated above and the same is accordingly dismissed with cost of Rs.20,000/-, to be paid in favour of Armed Forces Battle Casualties Welfare Fund, Canara Bank, South Block, Defence Headquarters, New Delhi, IFSC Code- CNRB0019055, Savings Account No. 90552010165915 within six weeks from today. Liberty is however granted to the Petitioners to take recourse to legal remedies depending on the outcome of the proceedings before the CEC at the appropriate stage and before the appropriate forum.

10. Pending application also stands disposed of.

JYOTI SINGH, J

JANUARY 20, 2025

B.S. Rohella/shivam