

(2021) 09 DEL CK 0265

In the Delhi High Court

Case No : Civil Writ Petition No. 10629 Of 2021, Civil Miscellaneous Application
No. 32761 Of 2021

Fight For Right Social Welfare Society

APPELLANT

Vs

Vice Chairman Delhi Development Authority Cum Chairperson
Special Task Force & Anr

RESPONDENT

Date of Decision : 21-09-2021

Acts Referred:

Citation : (2021) 09 DEL CK 0265

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Amit Bansal, J

Bench : Division Bench

Advocate : Deepak Issar, Neetu Bagri, Shobhana Takiar, Raghav Sabharwal

Judgement

D.N. Patel, CJ

CM APPL. 32761/2021 (exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 10629/2021

1. This so-called Public Interest Litigation has been filed seeking following reliefs:-

"1. Allow the above writ petition of the petitioner and issue writ in the form of mandamus or direction / order / guideline of like nature thereby directing the respondent no. 1 and 2 to demolish the booked illegal and unauthorized construction as per the list of properties already supplied to them.

2. Issue of writ of mandamus to the respondent no. 1 and 2 in the form of mandamus or direction/order/guideline of like nature thereby directing the respondent no. 1 and 2 to book the unbooked illegal and unauthorized construction as per the list of properties already supplied to them.

3. Issue of writ of mandamus to the respondent no.1 and 2 in the form of mandamus or direction/order/guideline of like nature thereby directing the respondent no. 1 and 2 to initiate enquiry/disciplinary/legal action against the corrupt officials of the respondent no.2 as per the list provided who are protecting illegal or unauthorized encroachment.

4. Pass any other order or further order/(s) at this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice."

2. Learned counsel appearing for the Petitioner submits that the properties which are mentioned at Page Nos.21 and 22 are unauthorised and illegal constructions and the same are not being demolished by the concerned Respondent authorities and therefore the present petition has been filed.

3. Learned counsel further submits that at Page 22 of the memo of this petition the list of properties which are illegal in nature and hence require complete demolition.

4. For ready reference, the list at Page 22 is reproduced below:-

S.No.

UNBOOKED PROPERTY DETAILS/ADDRESS

1.

M-75, Shastri Nagar, Sarai Rohilla, Delhi, supported by photograph

2.

M-28, Shastri Nagar, Sarai Rohilla, Delhi, supported by photograph

3.

M-29, Shastri Nagar, Sarai Rohilla, Delhi, supported by photograph

4.

L-167, Shastri Nagar, Sarai Rohilla, Delhi

5.

L-175, Shastri Nagar, Sarai Rohilla, Delhi

6.

M-52, Shastri Nagar, Sarai Rohilla, Delhi

7.

M-164, Shastri Nagar, Sarai Rohilla, Delhi

8.

E-238, Shastri Nagar, Sarai Rohilla, Delhi

9.

A-18, Shastri Nagar, Sarai Rohilla, Delhi

10.

F-34, Shastri Nagar, Sarai Rohilla, Delhi

11.

M-38, Shastri Nagar, Sarai Rohilla, Delhi

12.

M-9, Shastri Nagar, Sarai Rohilla, Delhi

13.

E-2/100, Shastri Nagar, Sarai Rohilla, Delhi

5. Learned counsel further submits that they were informed about the illegality of the constructions by persons living in the surroundings of such constructions. This is their source of knowledge. The photographs of the properties have also been annexed.

6. Having heard learned counsel for the Petitioner and looking to the facts and circumstances of the case, it appears that this is not a Public Interest Litigation. This is a blackmailing type of litigation.

7. When we put to the learned counsel for the Petitioner that as to how this Petitioner came to know about the illegality of construction of the aforesaid properties which are enumerated in Paragraph 14 at Page 22 of the petition, it is answered by the learned counsel for the Petitioner that persons who are living in surroundings of such constructions have conveyed to this Petitioner. The aforesaid answer is an evasive answer. Petitioner has no knowledge at all about the legality or otherwise of the construction in question for the properties which are mentioned at Page 22 and referred hereinabove.

8. The Petitioner has filed this petition without proper homework and only on being informed by some persons who are moving on road. This is not a method in which Public Interest Litigation can be filed by the Petitioner.

9. When we raised a question to the learned counsel for the Petitioner that whether Petitioner has ever obtained any information about the aforesaid 13 buildings under the Right to Information Act, 2005, the answer is in the negative. Thus, this Petitioner has not tried to get any information about the maps of the construction, etc. from the concerned Respondent authorities or from any competent authority.

10. It ought to be kept in mind that whenever any superstructure is to be demolished, even if it is illegal in nature, the Petitioner ought to have joined owners / occupiers of the superstructure as a party Respondent. No construction

can be demolished without hearing the owners / occupiers of the superstructure. In the facts of the present case, this Petitioner has not joined any owner / occupier of the superstructure in question which this Petitioner wants to be demolished.

11. In view of the aforesaid reasons, we do not see any reason to entertain this writ petition and the same is accordingly dismissed with costs of Rs.50,000/- to be deposited by the Petitioner with the Delhi State Legal Services Authority within four weeks from today. The aforesaid amount shall be utilized for the programme 'Access to Justice'.

12. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi.

13. List on 09.11.2021 for reporting compliance.