

(2020) 06 DEL CK 0131

In the Delhi High Court

Case No : Letter Patent Appeal No. 164 Of 2020, Civil Miscellaneous No. 13214 Of 2020

Gurbhej Singh Sethi

APPELLANT

Vs

Surat Singh & Ors

RESPONDENT

Date of Decision : 23-06-2020

Acts Referred:

Citation : (2020) 06 DEL CK 0131

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Prateek Jalan, J

Bench : Division Bench

Advocate : Ashesh Lal, M.S. Bammi, Tushar Sannu, Ankita Bhadoria, Warisha Farasat

Judgement

D. N. Patel, CJ

The proceedings in the matter have been conducted through video conferencing.

C.M.No.13213/2020(exemptions)

Exemptions allowed, subject to all just exceptions.

LPA 164/2020

1. The present appeal has been filed challenging an order dated 12.06.2020 passed by the learned Single Judge in W.P.(C) No.3294/2020.

2. We have heard the learned counsel for the parties. The prayers in W.P.(C) No.3294/2020 read as under:-

"a) Issue a writ of mandamus or any other appropriate writ directing the Respondents No.1 and 2 to restrain/stop the respondent no.3 from continuing with the illegal/unauthorized construction at property bearing no.WZ-219/1, Gali No.2, Virender Nagar, New Delhi - 110058 which is totally in derogation with the municipal laws; and/or

b) Issue a writ of mandamus or any other appropriate writ directing the Respondents No.1 and 2 to demolish the newly/recently constructed building at the property bearing No.WZ-219/1, Gali No.2, Virender Nagar, New Delhi - 110058 which is totally illegal/unauthorized and has been constructed in total derogation with and against the municipal laws/norms; and/or

c) Issue a writ of mandamus or any other appropriate writ directing the Respondent No.2 to immediately restrain respondent No.3 from use of illegal borewell at property bearing No.WZ-219/1, Gali No.2, Virender Nagar, New Delhi-110058, and/or

d) Issue a writ of mandamus or any other appropriate writ directing the Respondent No.2 to initiate necessary legal steps to shut the said borewell permanently at property No.WZ-219/1, Gali No.2, Virender Nagar, New Delhi-110058 in order to safeguard the area from any occurrence of any incident of land subsidence or so;

e) Issue a writ of mandamus or any other appropriate writ directing the Respondents No.1 and 2 to immediately initiate departmental enquiry/investigation against the corrupt/concerned officials due to whose negligence/connivance the said illegal/unauthorized construction has taken place upto the multi storey building level;"

3. The aforesaid writ petition has been preferred by respondent No.1 in this LPA.

4. Looking to the order dated 12.06.2020 passed by the learned Single Judge, it appears that this appellant is aggrieved by para-15 of the said order.

For ready reference, para-15 of the said order dated 12th June, 2020 reads as under:-

"15. If there is additional construction, the Deputy Commissioner of Corporation shall look into the matter, as to how this additional construction came about despite the Junior Engineer and other officers being available to monitor any illegal/unauthorized construction under their watch."

5. The contention of the appellant is that the respondent authorities have commenced demolition proceedings in the property bearing No.WZ-219/1, Gali No.2, Virender Nagar, New Delhi-110058 as a result of the directions contained in the impugned order dated 12th June, 2020. However, in view of the aforesaid observation of the learned Single Judge, read with other paragraphs of the said order dated 12th June, 2020, it appears that there is no direction by the learned Single Judge for demolition of the said property.

6. Without any specific direction for demolition by the learned Single Judge, the respondents might have initiated demolition action which may be in accordance with law, rules, regulations and government policies applicable to the facts of the case for the property in question. Looking to the facts of the case and the order dated 12th June, 2020 passed by the learned Single Judge in W.P.(C)

No.3294/2020, as the order of the learned Single Judge does not contain any direction regarding demolition of the property in question, therefore, the challenge of the petitioner against the action of the respondent, so far as demolition of the property in question is concerned, does not arise in an appeal against the said order.

7. Moreover, in the impugned order, the learned Single Judge has issued notice and after noting the arguments, has just passed an observation in para-15 against which no LPA is tenable in law, as no rights or liabilities of the parties have been crystallized by the order of the Court.

8. If the grievance of this appellant is against the action of the respondents, the appellant is not remediless. There is remedy available with the appellant. Proceedings could have been initiated by the appellant for getting the stay against the action of demolition in an independent proceedings, which this appellant has never done.

9. In view of these facts, no error has been committed by the learned Single Judge while passing the impugned order dated 12.06.2020 in W.P.(C) No.3294/2020. Hence, there is no substance in the appeal, the same is accordingly dismissed with no order as to costs. The application for interim relief also stands dismissed.