

(2018) 04 DEL CK 0175
In the Delhi High Court
Case No : CONT.CAS(C) 768 of 2017

MUKESH KUMAR

APPELLANT

Vs

EAST DELHI MUNICIPAL CORPORATION AND ORS; RANBIR
SINGH COMMISSIONER EAST DELHI MUNICIPAL
CORPORATION

RESPONDENT

Date of Decision : 17-04-2018

Acts Referred:

Citation : (2018) 04 DEL CK 0175

Hon'ble Judges : C.HARI SHANKAR

Bench : Single Bench

Advocate : Vivek Sharma, Anshul Garg Kirti Uppal, Ajjay Aroraa, Kapil Dutta, Hetu Arora, Abhimanyu Verma, Vivek Sharma, Anshul Garg, Kirti Uppal, Ajjay Aroraa, Kapil Dutta

Final Decision : Disposed Of

Judgement

GITA MITTAL, J.

1.The writ petition (W.P.(C)No.8435/2017) has been filed in public interest, complaining that the West Jyoti Nagar Colony, in the area of Chhajpur,

Kabir Nagar, Shahdara, Delhi was an unauthorized colony which was slated for regularization. It was stated that in the regularization plan of the

colony which was submitted to the authorities and approved by the Standing Committee of the Delhi Municipal Corporation on the 9th of October

1992, community facility projects were earmarked. A copy of the regularization plan has been placed as Annexure P-1 to the petition (page 26).

2.The writ petitioner complains that in contravention of the regularization plan, the land earmarked for community facility projects has been converted

into illegal and unauthorized residential complexes. In short, unauthorized

constructions have come up in the areas marked for community uses in the regularization plan.Â Â

3.On the 26th of September 2017, we had passed an order premised on the information furnished by the East Delhi Municipal Corporation (EDMC)

on 8th August, 2017 (pages 35 & 36), confirming that a plot ad measuring 0.936 hectares has been reserved for community facility which adjoined the

Guru Harkishan Public School, Loni Road, Delhi.Â We had observed that it was the responsibility of the Commissioner, EDMC to ensure that the

said plot was used for community facilities only.Â Â

4.In view of the constructions being raised in defiance of our orders dated 26th September, 2017, the writ petitioner had filed Contempt

Case(C)No.768/2017.Â Â

5.A status report has been filed in the contempt case stating that four properties, wherein the petitioner had alleged unauthorized constructions despite

prohibitive orders of this court, stand demolished.Â The municipal corporation shall ensure that the unauthorized constructions are completely

demolished.

6.The contempt petition makes a grievance that despite our orders dated 26th September, 2017 in W.P.(C)No.8435/2017 interdicting the illegal

construction on the land in question, the municipal corporation was not taking action.Â In view of the status report and affidavit filed before us, it

would appear that the municipal corporation has taken action in the matter.Â No further orders are warranted so far as the contempt petition is

concerned.

7.So far as the construction in the plot earmarked for community facility is concerned, we find that an application for impleadment being CM

No.43924/2017 has been filed by â??Resident Welfare Association, West Jyoti Nagar Extn.â?? through Shri Rajiv Kaushik, claiming to be the

General Secretary of the Association.Â In this application, it is claimed that it is an association of all the residents of F-Block of West Jyoti Nagar;

that the area forms part of the layout plan of the colony and that they are in continuous possession as residents of the colony for varying periods since

the year 1968.Â Â

8.It is submitted by Mr. B.S. Mathur, Id. counsel for the applicant, that the land in

question is privately owned land and the writ petition is misconceived.Â Â

9. It is however, not disputed that the regularization plan was submitted to the authorities for approval thereof.Â It cannot be denied that once a request for regularization is made, the colony has to be raised and developed in accordance with the layout plan, and of course comports to the requirements of statutory provisions.Â The layout plan includes spaces for public facilities; circulation parks, etc. Once the plan has been submitted for regularization, it is not open, even to a private land owner, to change the user which has been assigned to a particular plot of land.Â

10. In view of the above, it is trite that no request for regularization of any colony can be entertained by the authorities if there is any deviation from the regularization plan which was originally submitted to the authorities.

11. Before effecting any regularization of a colony, all authorities shall physically inspect the colony against the regularization plan and ensure that the constructions therein comport to the layout plan submitted for regularization, especially public facilities.Â This necessarily would include parks, community centres, roads, locations for installations of water pumps and electricity, etc.Â Enabling development of community facilities is a sacrifice of land which a request for regularization of a colony necessarily entails.

12. A copy of this order be sent to the Ministry of Housing and Urban Affairs, Government of India; Department of Urban Development, Government of NCT of Delhi; all the Municipal Corporations and the Delhi Development Authority for ensuring compliance.

13. In view of the above, this writ petition as well as contempt petition are disposed of.Â In view of the orders passed in the contempt petition, CM No.41191/2017 does not survive for adjudication and is hereby disposed of.