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**(2012) 03 DEL CK 0285**

**In the Delhi High Court**

**Case No : Writ Petition (C) 1833 of 2010**

Northern Credit and Collection Buisness Pvt. Ltd.

APPELLANT

Vs

Delhi Development Authority and Others

RESPONDENT

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**Date of Decision : 22-03-2012**

**Acts Referred:**

**Citation : (2012) 03 DEL CK 0285**

**Hon'ble Judges : Hima Kohli, J**

**Bench : Single Bench**

**Advocate :** Amrita Singh, for the Appellant; P.K. Mittal, with Ms. Preeti Gupta, for DDA, Mr. R.K. Saini, with Mr. Rajeev Kumar, for R-3, for the Respondent

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## **Judgement**

Hima Kohli, J.—This petition is filed by the petitioner praying inter alia for directions to the respondents to permit free ingress and egress, to its staff and the visitors, to commercial plot No.C-3, Block-A-1, Local Shopping Centre, Janak Puri, New Delhi. Notice was issued on the present petition on 19.04.2010, on which date, it was contended on behalf of the petitioner that it had participated in an auction conducted by the respondent No.1/DDA, for the purchase of the subject plot for which a sum of Rs. 4,41,50,000/- had been deposited by it with the DDA, whereafter, a conveyance deed had been executed in its favour. After the physical possession of the subject plot was handed over to the petitioner, construction was raised over the plot and ever since then, the petitioner has been operating its office from the subject plot.

2. The grievance raised by the petitioner herein is that the respondent No.3/RWA has illegally and unauthorizedly raised the height of the boundary wall of the local shopping centre beyond that which had been stipulated by respondent No.1/DDA in the lay out plan, i.e., from 0.85 mtrs.(2 ft.) to around 2.5 mtrs.(7 ft.). It was contended by learned counsel for the petitioner that on account of the raising of the boundary wall, the visibility of the commercial plot has been completely blocked and the ingress and egress of the petitioner, its staff and the visitors from the side of the 40 ft. road to the subject plot has been obstructed.

3. Counsel for the petitioner had further submitted on 19.4.2010 that the passage earmarked in the layout plan adjoining the said plots No.C-1, C-2 and C-3 and the approach road (40 ft. wide) via a plot that had been allotted to a Mother Dairy (Milk Booth) was also blocked by the boundary wall wherein, there was a small picket gate fixed by respondent No.3/RWA without obtaining any prior permission from the competent authority. The petitioner had contended that the Mother Dairy (Milk Booth) had also carried out illegal and unauthorized encroachments into the said passage thereby completely blocking the passage and rendering it unfit for access by any vehicle. Due to the aforesaid encroachment, the width of the passage had been reduced drastically as opposed to a sanctioned 18 ft. width in terms of the lay out plan of the respondent No.1/DDA. Lastly, it was submitted that the ingress and egress to the car parking area from the other side of the plot had also been blocked due to the illegal planting of trees, thus rendering the aforesaid area useless due to various blockages therein.

4. Having regard to the aforesaid submission made by the counsel for the petitioner, the respondents/MCD and DDA were directed to file their status reports. On the same day, a Local Commissioner was also appointed to visit the site, take photographs and ascertain the status of the alleged blockage complained of by the petitioner.

5. Pursuant to the aforesaid order, the Local Commissioner submitted a report dated 01.05.2010 wherein it was stated that the petitioner's plot was connected to the approach road by a small gate and adjacent to the gate were two stairs leading to the Mother Dairy Booth, partially blocking the ingress and egress to the gate. It was further noticed by the Local Commissioner that there was a rod affixed towards the lower end of the gate which made the access to the plot of the petitioner possible only by foot.

6. Respondent No.1/DDA has filed a status report dated 25.02.2011 stating inter alia that the Junior Engineer (Commercial Land), DDA had visited the site along with the Assistant Engineer (CL) on 27.01.2011. As per the approved plan, a provision for 0.45 mtr. high scheme boundary wall exists whereas, the same has been raised at the site around Plots No.C-1,C-2 and C-3 upto 1.35 mtrs. with M.S. grill. The status report further mentions that the entry from the Mother Dairy (Milk Booth) side has been restricted by providing a steel gate measuring 1 mtr. wide instead of free entrance of 10 ft. wide as per the approved plan. The front parking in front of Plot No.C-1,C-2 and C-3 has been obstructed due to trees planted unauthorizedly. In its counter affidavit dated 25.02.2011 respondent No.1/DDA, has stated that DDA has transferred the area in question to the MCD and that it is no longer concerned with the area in question.

7. The status report of respondent No.2/MCD dated 25.02.2011 mentions that respondent No.1/DDA had not clarified the height of the boundary wall as well as the details of the gate and as and when the same is clarified, MCD shall take appropriate action in accordance with law. As regards the Mother Dairy(Milk

Booth), it is stated that before taking encroachment removal action, a letter had been issued to the Head, Milk Sales Operation, Mother Dairy on 12.05.2010 and the same had been replied to, wherein, it was submitted that the Mother Dairy booths had been constructed in accordance with the standard design/drawing duly approved by the DUAC (Delhi Urban Art Commission) and applicable to construction of such booths all over Delhi. Lastly, MCD has stated that an encroachment removal action was fixed for 17.05.2010 and during the said action, encroachment in and around the parking area had been removed.

8. Counsel for respondent No.3/RWA states that the RWA has neither undertaken any of the unauthorized construction in the area as pointed by the petitioner nor has it fixed a gate therein. He further submits that respondent No.3 has not obstructed the free ingress or the egress to the shopping complex where the subject plots are situated.

9. In view of the aforesaid submissions made on behalf of respondent No.3/RWA, no directions are required to be issued against the said respondent. Nor has the petitioner sought any relief against the said respondent. Accordingly, respondent No.3/RWA is deleted from the array of respondents. The petitioner shall file an amended memo of parties within one week.

10. In view of the aforesaid facts and circumstances, it is deemed appropriate to dispose of the present petition with directions to the petitioner to first appear before Director (Commercial Land), DDA on 11.04.2012 at 3:30, who shall examine the grievance of the petitioner with regard to the height of the boundary wall in the shopping complex and address the said grievance by taking necessary remedial steps within four weeks from 11.04.2012, under written intimation to the petitioner. Thereafter, the petitioner shall appear before the Executive Engineer, MCD of the area on 16.04.2012 at 3:30 pm, who shall examine the matter and ensure that all necessary steps are taken by the MCD to remove the obstruction to the subject plot and ensure the free ingress and egress to the shopping complex as per the lay out plan, as expeditiously as possible and preferably within a period of four weeks from 16.04.2012, under written intimation to the petitioner, within two weeks therefrom. In case the petitioner is aggrieved by inaction on the part of the any of the aforesaid authorities, it shall be entitled to seek its remedies as per law. The petition is disposed of.