

(2019) 12 DEL CK 0405

In the Delhi High Court

Case No : Civil Writ Petition No. 6325 Of 2018, Civil Miscellaneous Application
No. 24298 Of 2018

Rohit Arora

APPELLANT

Vs

North Delhi Municipal Corporation & Ors

RESPONDENT

Date of Decision : 23-12-2019

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21, 226

Citation : (2019) 12 DEL CK 0405

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ;C. Hari Shankar, J

Bench : Division Bench

Advocate : Ajay Kumar Pipaniya, Pallavi Pipaniya, Ankit Mittal, Ashim Sood,
Senu Nizar, Zeeshan Hashmi, Ankit Parashar

Final Decision : Disposed Of

Judgement

D.N. Patel, CJ

W.P.(C) 6325/2018

1. This public interest litigation has been preferred with the following prayers:

"1. To issue a writ of mandamus to the respondents No.1 to 4 for initiating an inquiry regarding the illegal construction and change in the original structure of the basement of the Aggarwal Millennium Tower by the Respondent No.5 and Respondent No.9 at Netaji Subhash Place, Pitampura at the Senior level in a fair and impartial manner.

2. Issue a writ of mandamus ordering respondent No. 1 to 4 for immediate removal of all illegal structure, encroachments etc. and adhere to environment laws.

3. To hold and declare that the acts of omission and commission by the Respondents and concerned officials of Respondent No.1 to respondent No.4 is perverse, malicious in law and in fact illegal, arbitrary, unjust and violative of

legal, constitutional and fundamental rights of the occupants and visitors under Article 14, 19 and 21 of the Constitution of India.

4. Issue a writ of mandamus to the Respondent No. 1 to 4 for initiation of a Vigilance inquiry against the officers posted at building department NDMC for allowing the illegal construction by the Respondent No.5 and Respondent No.9 at different commercial complex by adopting corrupt practices.

5. Issue a writ of mandamus to the respondent No. 1 to Respondent No. 4 to conduct a survey and find out other illegal construction in Netaji Subhash Place, Pitampura, Delhi and take stern actions against the culprits.

6. Issue any order, writ or direction to Respondents to follow the provisions as established by law of the land i.e. Constitution of India and other relevant laws to safeguard the interests of people of Netaji Subhash Place, Pitampura.

7. Issue any other appropriate writ or direction to Respondent No. 5 to Respondent No. 15 to bear the costs of this petition.

8. Issue such other writ, direction or order, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

2. Having heard the learned counsel for both the sides and looking to the facts & circumstances of the case, it appears that the petitioner is in search of removal of super-structures which are not in consonance with law, by the respondents this process should be completed at the earliest.

3. We have heard learned counsel for the respondents and perused the affidavit filed by the Delhi Development Authority.

4. Looking to the contentions raised by learned counsel for the Delhi Development Authority, it appears that there is no illegality in the super structures as alleged by the petitioner.

5. In view of the aforesaid facts a highly disputed question of facts has been raised in this case, about the illegality or otherwise of the superstructure, or the use thereof, hence, we see no reason to entertain this writ petition while exercising our powers under Article 226 of the Constitution of India.

6. The facts as alleged by the petitioner are required to be established by cogent and convincing evidences before the Trial Court.

7. Nonetheless, if there is any illegality in the construction or in the usage thereof, the respondents shall initiate actions in accordance with law, rules, regulations and government policy applicable to the facts of the present cases and if there are any illegal construction, the same shall be removed after giving adequate opportunity of being heard to the concerned owners/occupiers of the premises in question.

8. With these observations, this writ petition is hereby disposed of.

CM APPL. 24298/2018

In view of the order passed in the writ petition, this application is disposed of.