

(2021) 09 DEL CK 0320

In the Delhi High Court

Case No : Civil Writ Petition No. 9997 Of 2021

Satpal Singh

APPELLANT

Vs

North Delhi Municipal Corporation & Ors

RESPONDENT

Date of Decision : 10-09-2021

Acts Referred:

Citation : (2021) 09 DEL CK 0320

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Jyoti Singh, J

Bench : Division Bench

Advocate : Pranay Majumdar, Tanu Priya Gupta, Anuj Aggarwal, Ayushi Bansal

Final Decision : Dismissed

Judgement

D.N. Patel, CJ

1. Present Public Interest Litigation has been preferred seeking the following reliefs :-

"i. Issue a writ of mandamus or any other writ or direction to Respondent No.1 to immediately stop the unauthorized and illegal construction in property of respondent No.4, property near property bearing No. G-74, Ranjit Vihar, Phase-II, near Jai Garden, in the area of 500 Sq. Yards.

ii. Issue a writ of mandamus or any other writ or direction to the respondent No.1 to immediately demolish the unauthorized and illegal construction in property of respondent No.3 of property bearing No. G-74, Ranjit Vihar, Phase-II, near Jai Garden, in the area of 500 Sq. Yards, including illegal encroachment in the form of the multi- storied commercial complex with basement.

iii. Issue a writ of mandamus or any other writ or direction to the Respondent No.2 to initiate criminal proceedings against Respondent No.3 for encroaching upon the land by illegally constructing a multi storied commercial building with basement.

iv. Issued a further writ of mandamus or any other writ or direction to the Respondent No.2 to assist Respondent No.1 in the demolition work, which Respondent No.1 may carry, as per law and to take immediate action, as per law, as and when the petitioner shall bring to his notice the illegal acts of Respondent No.4,

v. any other and further order/directions may also be issued in favour of the petitioner and against the respondents, as may be deemed fit and proper under the facts and circumstances of this case by this Hon'ble Court; and

vi. award costs in favour of the petitioner and against the respondents."

2. We have heard learned counsels appearing on behalf of the parties and have looked into the facts and circumstances of the case. It appears that the present petition is a motivated litigation and does not have any public interest element.

3. Learned counsel appearing for the Petitioner concedes that Petitioner has never applied to the concerned Authorities to gather information / details with respect to construction of the building in question either through a representation or under the Right to Information Act, 2005, so as to come to a conclusion that there is unauthorised / illegal construction in the building in question or any encroachment, as alleged. It is also admitted during the course of hearing that the Petitioner is not technically qualified nor has he hired the services of a technically qualified Architect or Engineer before filing the present petition making an averment that there is illegal construction in the building. It is obvious that the petition has been filed on mere presumptions and assumptions and without disclosing any material on record, which could even prima facie lead to a conclusion that there is illegal construction. Reading of the writ petition shows that there are vague, unsubstantiated and bald allegations.

4. Counsel for the Petitioner, on a pointed query, informed the Court that the petition was filed on mere hearsay information, without checking the veracity and the authenticity of the information. No documents in the form of site plan, etc. have been appended to the petition in support of the allegations levelled, and the annexures to the petition are the complaints made to various Authorities and certain photographs depicting the alleged illegal construction. The photographs or the complaints, undoubtedly, are not enough material for this Court to come to a finding in favour of the Petitioner. Nothing could be argued by the counsel appearing on behalf of the Petitioner as to how the Petitioner even came to know that the construction in question is illegal in nature.

5. We have no doubts in our mind that the petition has been filed without any ground work and also for an ulterior motive. We accordingly find no reason to entertain the present petition and dismiss the same with costs of Rs.10,000/- to be paid by the Petitioner to the Delhi State Legal Services Authority, within a period of six weeks from today. The aforesaid amount shall be utilized for the programme 'Access to Justice'.

6. A copy of this order be sent forthwith to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi- 110001.