

\$~3 & 4

**\*IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision : 17<sup>th</sup> April, 2018**

+ **CONT.CAS(C) 768/2017 & CM No.41191/2017**

MUKESH KUMAR ..... Petitioner

Through : Mr. Vivek Sharma and  
Mr. Anshul Garg, Advs.

versus

RANBIR SINGH COMMISSIONER EAST DELHI  
MUNICIPAL CORPORATION ..... Respondent

Through : Mr. Kirti Uppal, Sr. Adv. with  
Mr. Ajjay Aroraa and Mr. Kapil  
Dutta, Advs. for EDMC.  
Ms. Hetu Arora Sethi, ASC  
with Mr. Abhimanyu Verma,  
Adv. for R-7.

+ **W.P.(C) 8435/2017, CM Nos.43927/2017 & 10882/2018**

SH. MUKESH KUMAR ..... Petitioner

Through : Mr. Vivek Sharma and  
Mr. Anshul Garg, Advs.

versus

EAST DELHI MUNICIPAL  
CORPORATION AND ORS. ... Respondents

Through : Mr. Kirti Uppal, Sr. Adv. with  
Mr. Ajjay Aroraa and Mr. Kapil  
Dutta, Advs. for EDMC.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE C.HARI SHANKAR**

## JUDGMENT (ORAL)

### GITA MITTAL, ACTING CHIEF JUSTICE

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 Chhajjupur, 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 9<sup>th</sup> 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.

3. On the 26<sup>th</sup> of September 2017, we had passed an order premised on the information furnished by the East Delhi Municipal Corporation (EDMC) on 8<sup>th</sup> 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. We had observed that it was the responsibility of the Commissioner, EDMC to ensure that the said plot was used for community facilities only.

4. In view of the constructions being raised in defiance of our orders dated 26<sup>th</sup> September, 2017, the writ petitioner had filed Contempt Case(C)No.768/2017.

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. The municipal corporation shall ensure that the unauthorized constructions are completely demolished.

6. The contempt petition makes a grievance that despite our orders dated 26<sup>th</sup> 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. In view of the status report and affidavit filed before us, it would appear that the municipal corporation has taken action in the matter. 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 '*Resident Welfare Association, West Jyoti Nagar Extn.*' through Shri Rajiv Kaushik, claiming to be the General Secretary of the Association. 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.

8. It is submitted by Mr. B.S. Mathur, ld. counsel for the applicant, that the land in question is privately owned land and the writ petition

is misconceived.

9. It is however, not disputed that the regularization plan was submitted to the authorities for approval thereof. 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 comporting to the requirements of statutory provisions. 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.

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. This necessarily would include parks, community centres, roads, locations for installations of water pumps and electricity, etc. 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. In view of the orders passed in the contempt petition, CM No.41191/2017 does not survive for adjudication and is hereby disposed of.

**ACTING CHIEF JUSTICE**

**C.HARI SHANKAR, J**

**APRIL 17, 2018**

aj

भारत्यमेव जयते