

DEMOLITION OF ILLEGAL CONSTRUCTIONS/ENCROACHMENTS

INTERVENTION BY COMMON CAUSE

The High court of Delhi issued directions to the Municipal Corporation of Delhi for removing illegal constructions, encroachments of public lands and commercial establishments from residential areas while hearing some Writ Petitions It was then brought out in the media that the MCD was only carrying out cosmetic demolition, harassing middle class owners while sparing the unauthorized properties of highly connected persons, including politicians. Details of some such properties of highly connected people/politicians were published in the newspapers. There were reports of complaints that the MCD officials who had allowed such illegal constructions by taking heavy bribes, were now making money in order not to demolish or report a particular illegal construction. Our office also received complaints through telephones from the aggrieved persons.

It was, therefore, decided to file an Application of Intervention requesting the High Court to issue such directions as to ensure that the demolitions carried out by the MCD are neither selective nor cosmetic. Our Application (587/2006) was heard, alongwith the pending Petitions on 18.1.2006.

IN THE HIGH COURT OF DELHI AT NEW DELHI

C. M. NO. 587 OF 2006

IN

C. W. P. NO. 1397 OF 2001

IN THE MATTER OF :

Sh. Joginder Kumar Singla - - - Petitioner

Versus

Municipal Corporation of Delhi & Anr. - - - Respondents

IN THE MATTER OF:

COMMON CAUSE(A REGISTERED SOCIETY),

COMMON CAUSE HOUSE,

5, INSTITUTIONAL AREA,

NELSON MANDELA ROAD,

VASANT KUNJ,

NEW DELHI 110070 - - - Applicant

APPLICATION UNDER ORDER 1 RULE 10 OF CODE OF CIVIL PROCEDURE FOR INTERVENTION ON BEHALF OF COMMON CAUSE (A REGISTERED SOCIETY).

MOST RESPECTFULLY SHOWETH:

1. That the Applicant is a Registered Body, an Organization for ventilating problems of common people. The Applicant is engaged in taking up issues where the common people are unable to do so for lack of resources or awareness. The Applicant thus has a Locus-Standi to file the present application which is filed pro bono publico.

2. That a Division Bench of this Hon'ble Court on 29.08.2002, vide a Speaking Order were pleased to observe the manner in which the residential properties are converted into commercial properties by investing black money and such conversion, in any case, was illegal being against the provision of Delhi Municipal Corporation Act as well as the DDA Act. It is also in violation of user prescribed in Master Plan Delhi, and Zonal Plan for the zones in question as per which residential properties cannot be put to commercial use.

3. That the Hon'ble Court was further pleased to observe that the MCD has been endowed with ample powers under its various sections inter alia Section 343, 344, 345, 245-A, 346 and 347 of the Act to discourage, prevent and stop illegal and unauthorized use of buildings. Furthermore, the running of commercial activities from residential premises is not at all warranted under the provisions of the said Act and the MCD is duty bound to take measures to ensure that such misuse is not carried out in respect of the said properties.

4. That this Hon'ble Court was further pleased to observe that the Courts enforce the performance of statutory duty by public bodies as obligations to tax payers who have a legal right to demand compliance by a local authority of statutory rights, all residents in the area have their personal interest in the performance of the duty. The special and substantial interest of the residents in the area is injured by the illegal construction.

5. That this Hon'ble Court was accordingly pleased to direct MCD / DDA to complete the action in respect of the erring properties and file Action Taken Reports by them within a period of 6 months. That the Hon'ble Court yet again on 14.12.2005, was pleased to direct the MCD to take appropriate action against all buildings whether residential or commercial including action of demolition so as to bring these buildings within the parameters of the sanctioned plans and in conformity with permissible use. The status report in this regard shall be filed on the next date of hearing. The matter was accordingly renotified for 18.01.2006.

6. That apparently the demolition of unauthorized construction as well as encroachments over public land alleged to have been carried out by M.C.D are only cosmetic in nature, the said demolitions were repaired even before the demolition team left the site in question. Be that as it may, smaller properties with minor violations on the other hand have been the target of the alleged drive, whereas large /big Malls /Showrooms having considerably large violations have been spared. This leaves an impression in

the minds of the public that money has changed hands or that bribes have been demanded as has been shown widely in the visual media.

That during the alleged drive not a single property belonging to the Builder Mafia or the high and mighty politicians / Legislators has been demolished. It is common knowledge how several properties located in residential areas are being used for commercial purposes. A banquet hall is being run from A-9 Kirti Nagar, the residential house of Ms Anjali Rai, House no.1 in Block E-1, Sector 7 Rohini belonging to a municipal councilor Mr. Laxman Dass Ahuja runs Ahuja Furnishings. Ms. Kamla Malhotra's residence at B-3A, Block, Janakpuri, New Delhi, Mr. Jagdish Mukhi's residence at C-4C/63, Janakpuri, New Delhi, Mr. Prem Singh's residence at F-301, Lado Sarai are all being used for commercial purposes. Mr. Udai Singh's residence at Paschimi Marg Vasant Vihar, New Delhi occupies the pavement in front obstructing the pedestrians and creating a traffic hazard. Mr. Jai Bhagwan Aggarwal's residence at A-17, Saraswati Vihar runs a show room. Similarly at Chitrangan Park, the area councilor Sh. Virender Kasana has an office right next to the restaurant which he shares with Mr. Subhash Chopra. Mr. Kasana is a Member of DDA and is involved in finalization of Delhi Master Plan 2021. The list mentioned herein above is only illustrative and not exhaustive. Extensive coverage of the abovesaid facts has been seen in the print media along with pictures of the offending structures.

That the representative body of 140 Residents' Associations has on the other hand pleaded that this Hon'ble Court may take cognizance of the selective, motivated and nominal demolition being carried out by MCD/DDA.

It is therefore, humbly prayed that the Applicant be impleaded as petitioner and an independent committee be constituted by the Hon'ble Court with Lawyers, Social Workers, Journalist etc. as members of the said committee to inspect at random demolitions carried out and report to this Hon'ble Court whether they are complete, selective or motivated. It is prayed accordingly.

New Delhi