

% 04.04.2003

Present : Mohd. Sajid with Mr. Arun Kaushal, Advocates for the petitioner.
Mr. Abhilesh Mathur, Advocate for the respondent No. 1 / UOI.
Mr. Malaya Chand, Advocate for the respondent No. 2.
Mr. Atul K. Bhuchar, Advocate for the respondent No. 3 / DDA.
Mr. Chetan Dutt with Mr. R.K. Yadav, Advocates
for the respondent No. 4 / MCD.

+ CWP No. 1837/2003

* The petition has been filed by the petitioners claiming to be residents of Jaitpur Extension Part II seeking a restraint order against the respondents from interfering with the possession of the members of the petitioner association till such time as the decision is taken on the issue of regularisation of the colony.

It is stated in the writ petition that the colony in question is one of the colonies mentioned in the list of 1071 unauthorised colonies in respect of which the question of regularisation is pending consideration. The question of regularisation of these unauthorised colonies form subject matter of CW No. 4771/1993 where the Division Bench vide order dated 17.08.1998 observed as under :

"In respect of the colonies on the Government land and other colonies which are not to be regularised for one reason or the other, it is high time that the Government takes a definite decision. Over the years we have passed repeated orders impressing upon the Government that the result of not taking decision is resulting in corruption at various levels. We are not suggesting, for the present, whether a particular colony shall be regularised or not but what we are directing is to take a definite decision and if it is decided not to regularise a particular colony then to carry out that decision to its logical end by demolition action not merely demolition of only few selected houses but the colony as a whole."

Despite the aforesaid observation till date no final decision has been taken on the issue of regularisation.

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared the
digital data is as per the physical file

In view of the aforesaid, I consider it appropriate to pass the following

directions :

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CWP No. 1837/2003

1. It will be open to respondents to inspect the colony in question and take all necessary steps to protect the open areas of the land.
2. It will be open to respondents to take all necessary action to ensure that no further construction is carried out by any of the occupants of the area in question.
3. It will also be open to the respondents to proceed against any construction carried out after 3.11.1997 when an order was passed in CWP No.4771/1993 Common Cause & Others Vs. UOI & Others, prohibiting any further construction in their unauthorised colonies.
4. It is open to the respondents to take a decision on the issue of regularisation and till the issue of regularisation is decided, respondents shall not apply the principle of pick and choose amongst the occupants of the colony for taking any action including for dispossession or demolition other than to ensure aforesaid directions.
5. Learned counsel appearing for the petitioner states that the occupants shall file an undertaking before this Court within a period of four weeks from today stating that they will not carry on any further construction and remove any construction made after 3.11.1997, use the property only for residential use and not carry on any commercial activity, not occupy any open areas and not create any third party interest or part with possession of the property till the decision is taken on the issue of regularisation of the colony. A plan of the existing construction showing the open and covered area along with photographs shall also be filed. The protective orders passed today would be applicable only to such of the occupants who will file the necessary undertakings.

Writ petition stands disposed of with the aforesaid directions.

DASTI to learned counsel for the parties.

C.M. No. 3035/2003

No further orders are called for in this application in view of the disposal of the writ petition.

Application stands disposed of.

April 4, 2003
am


SANJAY KISHAN KAUL, J