

Sameer Varma vs South Delhi Municipal Corporation And ... on 11 January, 2023

Author: Manoj Kumar Ohri

Bench: Manoj Kumar Ohri

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 1340/2020, CM APPL. 8824/2020, CM APPL. 9156/20

SAMEER VARMA

Through:

Mr. Amitesh Gaurav, A
petitioner in person.

Versus

SOUTH DELHI MUNICIPAL CORPORATION AND

ANR.

..... Respond

Through: Mr. Ranjeet Pandey, Standing

Counsel for respondent

alongwith Mr. Anil Kumar, A.E.

MCD.

Ms. Shobhana Takiar and Mr. Ku

Singh, Advocates for responden

No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% 11.01.2023

1. By way of present petition filed under Article 226 of the Constitution of India, the petitioner, who claims to be resident of H Block, Flat No. 49-C, Saket, New Delhi - 110017, is aggrieved by the construction of a guard room beside the Gates Nos. 1 and 4 in H-Block, SFS Flats, DDA by the respondent No.2/ Resident Welfare Association.

2. During the course of submissions, learned counsel appearing for the petitioner, on instructions from the petitioner who is present in Court, submits that the petitioner has no objection to the guard room, however, that should not be a pucca structure.

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3. Mr. Ranjeet Pandey, learned Standing Counsel for respondent By:SANGEETA ANAND Signing Date:13.01.2023 14:28:02 No.1/Corporation submits that a Status Report has been filed, however, the same is not on record. He has handed over a copy of the same which is taken on record. The Report reads as under :-

"3. That vide instant writ petition, the issue raised is regarding guardrooms near Gate No.1 and 4 within the gated colony, H-block Saket, New Delhi which is a SFS Housing Society of DDA.

4. That H Block is one of the first SFS group housing Colony built by DDA as per its 1977 plan which comprising of 304 flats. Flats were allotted to residents in 1981.

5. That the guardrooms are in question is existing since long. As per local enquiry the guard room is in existence since beginning, the allotment of the flats to the residents and at present this is being used to regulate the entry and exit of the persons under the supervision of RWA H-Block Saket.

6. That under Unified Building Bye Laws, 2016, the Guard Hut/Cabin is defined under clause 1.4.19 as follows :-

"1.4.19 Cabin/Guard Hut: A room constructed with non-load bearing partition/partitions with minimum width of 2.0 m. provided light and ventilation standards prescribed in these byelaws are met with or the provision of light and ventilation is to the satisfaction of the authority."

7. That under Chapter 12 "SWACCH DELHI" of Unified Building Bye Laws in all complexes public toilets/wash rooms, ATM, Guard Room are to be constructed mainly in the setback area within the plots, provided they do not obstruct the fire fighting path.

8. That the petitioner also filed a complaint before the Public Grievance Commission on 17.01.2019 with regard to Digitally Signed guard rooms which are the subject matter of the present By:SANGEETA ANAND Signing Date:13.01.2023 14:28:02 petition. The Public Grievance Commission was in the view that the guard rooms for the benefit of the society and it is normally permitted but it should not become a place where undesirable activities start taking place. Accordingly, directions were given to call a meeting of RWA representatives and the complainant to sort out the issue. Thereafter RWA H- Block sent a letter dated 02.07.2019 with regards to decision taken in the meeting vide which it was informed that the RWA is not in favour to make any change in the guard rooms. The copy of letter dated 02.07.2019 is annexure as Annexure R-1."

4. Ms. Shobhana Takiar, learned counsel appearing for respondent No.2/ Resident Welfare Association submits that the petitioner has suppressed the material facts, inasmuch as, in the petition it has not been disclosed that he had earlier filed a complaint before the Public Grievance Commission wherein hearings were conducted and vide proceeding dated 24.04.2019 following observations were made:-

"3. Relevant facts emerging during the hearing 3.1 Sh. H.M.Meena, AE(M), South Zone is present in the hearing and submitted a Status Report stating that a programme was fixed on 19.04.2019 for re-erecting the window and door of Guard Room at Gate no. 1 & 4, DDA Flats, H-Block, Saket, but during the action, RWA

members created hindrance due to which the action could not be taken up. Complainant Sh. Sameer Verma was also present there. However, Sh. Sameer Verma has also erected a sign board by name of Real Estate in front of his office which is more than the permissible size 3.2 Dr. Reena Ramachandran, Sh. D. K. Bose and Sh. Praneesh Rattan, Members of RWA, present in the hearing were advised to sort out the matter amicably and to reach to a logical conclusion. They have agreed to discuss the matter Digitally Signed in their General Body Meeting to sort out the issue of By:SANGEETA ANAND Signing Date:13.01.2023 14:28:02 replacing the Steel Door with a Grill Door to have more visibility in the Guard's Room.

3.3 The Complainant present in the hearing has also agreed to pay the expenses for installation of the Grill Door.

4. Directions of the PGC ;

4.1 Sh. H.M.Meena, AE (M), South Zone is directed to coordinate the matter with the complainant and RWA members and take necessary action for installation of Grill Door in the Guard's Room.

4.2 Sh. Vishwendra, Deputy Commissioner, South Zone is advised to ensure that action in the matter is taken by the concerned officers in a time bound manner.

4.3 With the above direction, the matter stands closed at the level of this Commission."

5. During the course of submissions, attention of this Court is also invited to the Minutes of Meeting held on 27.02.2019 by the Public Grievance Commission wherein following facts and suggestions were made :-

"3. Relevant facts emerging during the hearing 3.1 Sh H M Meena, AE(M), South Zone is present in the hearing and informed that Guard Rooms have been erected by the RWA and are located on the main gate of society since beginning.

3.2 The complainant present in the hearing informed that earlier windows were installed in these Guard Rooms but now these windows have been covered and a gate is installed as a result of which no one can see/watch the activities of Guard Rooms. He further quoted some instances of people Digitally Signed By:SANGEETA ANAND Signing Date:13.01.2023 14:28:02 drinking in these Guard Rooms.

3.3 It seems that this is a small issue which can be sorted out amicably between the complainant and RWA. All said and done this encroachment is on the Public Land but is for the benefit of the society and is normally permitted. It should not be allowed to become a place, where undesirable activities start taking place.

4. Directions of the PGC Sh H M Meena, AE(M), South Zone is directed to call a meeting of RWA representatives and complainant to sort out the issue. He is further directed to inform the RWA to erect the windows in Guard Rooms and the gate of Guard Rooms be replaced with Glass Door so that activities in Guard Rooms be watched. An Action Taken Report in the matter be submitted before the next date of hearing."

6. Learned counsel appearing for the petitioner submits that the petitioner is not averse to the existence of the guard room but to non- adherence of PGC's suggestions by the RWA as till date no window has been installed in the guard room.

7. Learned counsel appearing for respondent No. 2/ Resident Welfare Association submits that it will be ensured that glass window of sufficient size is affixed on the guard room in order to ensure compliance of the suggestions of Public Grievance Commission. She further submits that the gates of the society shall also be maintained properly in terms of the 'Policy/Guidelines for Installation of Gates for Security Purpose in Colonies'.

8. In view of the aforesaid the present petition is disposed of with the directions that the RWA shall do the needful within 6 weeks from today. Digitally Signed By:SANGEETA ANAND Signing Date:13.01.2023 14:28:02 Miscellaneous applications are disposed of as infructuous.

MANOJ KUMAR OHRI, J JANUARY 11, 2023 ga Digitally Signed By:SANGEETA ANAND Signing Date:13.01.2023 14:28:02