

**BEFORE THE HON'BLE LOKAYUKTA
JUSTICE REVA KHETRAPAL
COMPLAINT NO. C-1240/LOK/2012**

IN THE MATTER OF:

Complaint regarding illegal construction and encroachment on Government land – Shri Bansi Lal, R/o. S-149, Pandav Nagar, Delhi 110092 INFORMANT

And

IN THE MATTER OF:

Inquiry under Section-7 read with Section 2(b) of the Delhi Lokayukta & Upalokayukta Act, 1995, against Shri Sharanjeet Sharma, Ex. Municipal Councillor, Ward No.224, R/o. 22/4, Pandav Nagar, Delhi 110092. RESPONDENT

PRESENT:

1. Shri Vivek Tandon, Advocate, Amicus Curiae.
2. Shri G.D. Mishra, Advocate, for East Delhi Municipal Corporation.
3. Shri Joby P. Varghese, Advocate, Counsel for respondent.
4. None for DDA.

ORDER

1. By this order it is proposed to dispose of the pseudonymous complaint filed before this Forum on 11-01-2012 against the respondent, Ex. Municipal Councillor, Pandav Nagar, Delhi.



2. The complainant, in the complaint, has alleged that the Municipal Councillor of Pandav Nagar, Ward No.224, Shri Sharanjeet Sharma, is "making mass" (sic. mess) of the planned colony Pandav Nagar/Ganesh Nagar by making many illegal encroachments in the area including illegal construction at B-11, B-12, B-13 and B-14, C-150 and C-151, D-19 and Shop/Plot No.6.
3. In the course of enquiry conducted during the tenure of my learned predecessor, through information sought from different agencies including status reports filed on behalf of the Executive Engineer (Building)-II, Shahdara South Zone, East Delhi Municipal Corporation, it was revealed that the Respondent-Municipal Councillor had nothing to do with property No. B-11, B-12, B-13 and B-14, as well as property No. D-19 Pandav Nagar. As regards property/shop No.06, the status report mentions that the property was in the name of one Shri Amar Nath Prashar and on his demise his legal heirs relinquished their shares in favour of Shri Vijay Kumar Prashar, son of Shri Amar Nath Prashar. Subsequently, Sale Deeds were executed in favour of the Respondent-Municipal Councillor Shri Sharanjeet Sharma on 22-01-2009 and the Respondent Municipal Councillor Shri Sharanjeet Sharma in turn executed Sale Deeds dated 04-06-2010 in favour of one Smt. Promila



Chaturvedi. It is further set out in the status report of East Delhi Municipal Corporation dated 22-04-2013 as under:-

“As the construction activity is prior to February 8, 2007, hence, no action is warranted at this stage as the present property enjoys protection till 31-12-2014 under the provisions of The National Capital Territory of Delhi Laws (Special Provisions) Second Bill, 2011, passed by the Parliament.

In view of the above, it is humbly submitted that action against the unauthorized construction over the properties in question has already has been initiated as per the provisions of DMC Act. Further action shall be taken in due course of time as per the provisions of DMC Act and in terms of the orders/directions passed by the Hon’ble High Court as well as this Hon’ble Court”.

4. It may be mentioned at this juncture that Writ Petitions filed in respect of some of the above said properties including properties bearing No. B-11 and B-12 Pandav Nagar are pending adjudication before the Hon’ble High Court of Delhi.
5. From the aforesaid it is clear that the complaint with regard to the respondent having raised unauthorized constructions in properties bearing No. B-11, B-12, B-13 and B-14 and D-12 and



Shop No.6 are proved to be without any credibility and in fact patently false.

6. With regard to properties bearing No. C-150 to C-152 Pandav Nagar, in the response filed by the Respondent to the show cause notice issued to the Respondent by this Forum under Section-7 read with Section-2(b) of the Delhi Lokayukta & Upalokayukta Act, 1995 (hereinafter referred to as the "Act"), it is the stand of the Respondent that the Respondent's wife Smt. Renu Sharma had purchased the aforesaid property bonafide with two other persons, namely, Smt. Rekha Gupta and Smt. Kusum on 11-08-2011. It is submitted by the Respondent that the allegation against him that he has abused or misused his position to obtain gain or favour to himself or to any other person, or to cause loss or undue harm or hardship to any other person, or has been actuated in the discharge of his functions as public functionary by improper or corrupt motives or personal interest, is absolutely false. The respondent submits that Pandav Nagar is a duly authorized colony by the Government of National Capital Territory of Delhi and the respondent has not in any manner carried out illegal constructions using his influence. Properties bearing No. C-150 and C-151 were acquired by the wife of the respondent under the impression that it was an approved piece of land, and even if it is found to be in the right of way of National



Highway No.24, as is now sought to be made out, the alleged onus shall fall upon the erstwhile owners of the property and not on the respondent. It is accordingly, prayed that the show cause notice may kindly be withdrawn.

7. The learned Amicus Curiae Shri Vivek Tandon, Advocate, has submitted a report today, that is, 11-07-2016, which bear out the aforesaid contentions of the Respondent-Municipal Councillor. As per the report of Shri Tandon, learned Amicus Curiae, the documentary evidence on record reveals that the Plot Nos. C-150, 151 and 152 Pandav Nagar, Delhi 110092, admeasuring 250.83 Sq. Mtrs (300 Sq. Yds), were purchased by the wife of Shri Sharanjeet Sharma, namely, Smt. Renu Sharma along with two other persons, Smt. Rekha Gupta and Smt. Kusum, for consideration on 11-08-2011. The chain of documents filed along with the property papers of Plot Nos. C-150, 151, 152 Pandav Nagar, Delhi 110092, show that the said property, initially admeasuring 325 Sq. Yds, came into existence in the year 1952 when the Colony, namely, Pandav Nagar was developed by the colonizer and the said property was owned by one Delhi Housing Company. The said Delhi Housing Company through its power of attorney holder, Shri Banwari Lal Jain sold the said property to Shri Badri Nath Bagga on 15-04-1999 vide document No. 2225 in Addl. Book No.I, Volume No.448 on pages 179 to 182 registered before the Sub

K

Registrar, Delhi. After the death of Shri Badrinath Bagga on 13-05-2008, the right, title and interest in the said property devolved upon his legal heirs comprising of his wife and four children. Subsequently, his children vide registered Relinquishment Deed dated 09-07-2009 relinquished their complete rights in the said property in favour of their mother, Smt. Raj Rani Bagga vide document No. 8152 in Additional Book No.I, Volume No. 4091 on pages 184 to 187 registered with the office of Sub Registrar-VIII, Delhi. Subsequently, from Raj Rani Bagga, the said property was purchased by the wife of Shri Sharanjeet Sharma, Smt. Renu Sharma along with two other persons, namely, Smt. Rekha Gupta and Smt. Kusum, for consideration on 11-08-2011.

8. Site Plans of both sides abutting the National Highway submitted by PWD are also placed on record. As per one of the said site plans, the North Pandav Nagar Colony was approved as regularized colony vide Resolution No.47 dated 04-06-1982; and the boundary wall of the North Pandav Nagar Colony shows that the house of the wife of Shri Sharnajeet Sharma would fall within the boundary wall of North Pandav Nagar Colony. Further, the layout plan of North Pandav Nagar approved by the land development agency, DDA, vide Resolution No. 47 dated 04-06-1982 shows that the right of way of 91.4 Mtrs of NH-24 exists adjacent to the said property.



The said site plan also shows that the National By-pass admeasuring 91.4 Mtrs is abutting the land/colony being North Pandav Nagar on the left side, while the by-pass is going from Nizmauddin to Ghaziabad side.


9. The other site plan indicates that the layout plan of Pandav Nagar E, F and P Block, Acharya Niketa, Shashi Garden, Janta Garden, Pratap Nagar, Samsapur Extension was approved by the Authority as authorized colony vide Resolution No. 59 dated 01-02-1983. A perusal of the layout plan of the said Colonies including Pandav Nagar, would show that the said colonies existed on the right side of the National Highway right of way of 91.4 Mtrs. Further, as per the approved site plan, on the right side of the National Highway, there exists a green belt and thereafter houses in the layout plan. However, as on date there is no such green belt existing on the site. The right of way limit of 91.4 meters on National Highway-24 begins only after the green belt.
10. Learned amicus curiae in his report submits that upon a super imposition of the lay out plan, as per status of site as on date, it seems that there has been a shift of various houses and flats from existing places and on account of the said reason the properties which were on the outer border line of the colony have been pushed back. It is further stated that for assessing

the actual facts, various site inspections were carried out along with various concerned agencies and photographs of the actual sites have also been taken, which would show the factum of construction on both sides of the road. The said photographs are enclosed with the report. It is further submitted that as on date, adjacent to property No. 151 and 152 there is a 10-12 feet service road and only thereafter the PWD limit of NH-24 begins. Further, many other properties immediately neighbouring the said property, which find mention in the approved layout plan dated 04-06-1982, are also standing in the same line of the road as the said property.

11. It is further stated in the report that in view of the large scale mass encroachment of government land from the side of E, F and P Block, Acharya Niketa, Shashi Garden, Janta Garden, Pratap Nagar, Samaspur Extension towards NH-24, possibilities of encroachment on the right of way of NH-24 from this side of the road cannot be ruled out.
12. Thus, from the documentary evidence on record read with the report of learned Amicus Curiae, the following facts clearly emerge.
13. Premises bearing No. C-150 and 151 were purchased by the wife of Shri Sharanjeet Sharma, namely, Smt. Renu Sharma along with two others, namely, Smt. Rekha Gupta and Smt.



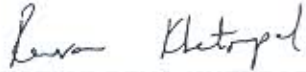
Kusum, vide registered instruments of sale in the year 2011. The chain of documents filed with the property papers of the aforesaid properties show that the said property initially admeasuring 325 Sq. Yds. came into existence in the year 1952 when the Colony named Pandav Nagar was developed by the colonizer and the said property was owned by one Delhi Housing Limited. Thus, the record suggests that the Respondent's wife along with her two co-owners purchased the said property *bonafide* under the assurance that the said property had been regularized and approved by DDA. As a matter of fact, a list of colonies under the jurisdiction of DDA as on 31-05-1984 is placed on record by the Respondent which is not disputed and which shows that Pandav Nagar, which is at S. No.27 of the said list, was regularized on 04-06-1982. There is also on record the approved plan of Pandav Nagar which clearly shows the plots bearing No. C-150 and 151 Pandav Nagar, Delhi, and from the said plan it is also apparent that some portion of property bearing No. C-150, viz., about 25 Sq Yds was taken away by the civic authorities for providing service lane. The said plan further shows that after regularization, a by-pass admeasuring 91.4 Mtr was provided for and the said properties were regularized and given the stamp of approval.



14. The necessary conclusion, therefore, is that there is nothing on record to suggest that any illegal or unauthorized construction activities were carried out by the Respondent Municipal Councillor - Shri Sharnajeet Sharma and/or his wife Smt. Renu Sharma on the properties aforesaid, being property No. C-150 and 151, Pandav Nagar, which had been in existence from 1952 and had been duly approved in 1982, specifically leaving the right of way of 91.4 Mtrs to the south of the said properties. As noticed above, the complaint regarding the remaining properties is patently false. The necessary corollary is that the Respondent-Councillor Shri Sharanjeet Sharma cannot be said to have committed any action or omission in his capacity as a public functionary or derived any undue advantage personally or through his wife and/or abused or misused his position in any manner.
15. Resultantly, the show cause notice dated 08-10-2012 issued to the Respondent-Municipal Councillor Shri Sharanjeet Sharma, under Section-7 read with Section 2 (b) of the Act, stands discharged. File be consigned to the record room.

Dated: 10th August, 2016

hk


(JUSTICE REVA KHETRAPAL)
LOKAYUKTA, DELHI