

**Ram (Cap.) Singh Vs. Lt. Governor of Delhi and ors.**

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**Court :** Delhi

**Decided On :** Aug-14-1998

**Reported in :** 1998VIAD(Delhi)857; 1998(47)DRJ233

**Judge :** Devinder Gupta and; K. Ramamoorthy, JJ.

**Acts :** [Constitution of India](#) - Article 226

**Appeal No. :** C.W. No. 1020/92

**Appellant :** Ram (Cap.) Singh

**Respondent :** Lt. Governor of Delhi and ors.

**Advocate for Def. :** Mr. R. Kapoor and ; Mr. V. Shekhar, Advs.

**Advocate for Pet/Ap. :** Mr. K.K. Sinha, Senior Adv. and; Mr. Dalip Singh, Adv; M

**Judgement :**

ORDER

**Devinder Gupta, J.**

1. Petitioner is a resident of Bapu Park, Kotla-Mubarakpur, New Delhi, which is the area stated to be lying between South Extension Part-I, defense Colony and Lodhi Colony. Petitioner's case is that Bapu Park is adjacent to Blocks C and D of South Extension Part-I, New Delhi. The colony was developed and its plan was duly

sanctioned by MCD. The remaining area was acquired by the Government. Compensation was paid to the owners. Because of the inaction on the part of the authorities, certain persons occupied the area, which belonged to Government and carried out new constructions. Some of the persons occupied the main road. Petitioner's grievance has been that the respondent authorities have failed and neglected to discharge their statutory obligations despite various representations made by him for removal of illegal encroachment made within the area, which is sandwiched between Blocks C and D of South Extension Part-I and Subhas Market. According to him, mainly there were three cases of encroachment by K.D. Chaudhry, Surender Rastogi and Om Prakash (Respondents Nos. 4, 5 and 6). The petitioner has prayed for the following directions:-

(i) Issue a writ in the nature of Mandamus directing the respondents authorities to remove all illegal encroachments within the area sandwiched between Blocks C & D of South Extension Part-I, New Delhi, Village Pijanji and Subhash Market, New Delhi including the encroachments at point marked 'X' and those being constructed by Surendra Rastogi and Om Prakash as mentioned in paras (g) and (h) of the petition.

(ii) Issue a writ in the nature of Mandamus directing the respondents, Delhi Police to remove the public nuisance under Section 133 of the Code of Criminal Procedure and also under Sections 268 and 448 of the Indian Penal Code and Sections 83, 84 of Delhi Police Act.

2. On 10.3.1992, while issuing show cause notice on petitioner's miscellaneous application, a direction was issued that in the meanwhile no construction, contrary to bye-laws or building plans shall be made or continued and it is the duty of the police to see that the order is complied with.

3. When despite service of notice and time being granted for the purpose, respondent-MCD failed to file any reply, a specific direction was made on 16.4.1992, calling upon the Commissioner to file reply after visiting the area within a period of three weeks. The Commissioner was directed to remain present in Court in case no reply was filed. Pursuant to these directions, P.V. Jaikrishnan, Commissioner, MCD filed his affidavit stating that in compliance with the order, he

had himself inspected the area of Bapu Park on 5.5.1992. It was further stated that the records relating to lay out plans, development plans and road alignment etc. were still with DDA, therefore, it was not possible to distinctly identify the status of the land, alleged to have been encroached upon. However, it is stated that as per inspection carried out on 5.5.1992, some encroachment was found to have been made. As per this affidavit, directions had been issued to remove the temporary encroachment. The affidavit reads:-

'I had also seen unauthorised construction of basement on a plot of land between House No. 43 and 65 which has been marked as 'X' on the plan attached with the writ petition. I have seen the records. This unauthorised construction of basement was booked for demolition on 13.2.92. Said construction has been carried out at the instance of K.D. Chaudhary. Show cause notice under Section 343 was issued, a copy of which is Annexure 'A'. No reply was received and as such,  
DEMOLITION

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