

PUBLIC GRIEVANCES COMMISSION
(Govt. of NCT of Delhi)
M-Block, Vikas Bhawan, IP Estate, New Delhi – 110110
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Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR
dated 25.9.97

Date of hearing: 20th Oct., 2020

Complainant : Sh. Anil Kumar,
Respondent : Deputy Commissioner
Shah. South Zone, EDMC
Grievance No. : PGC/2019/MCD/56

1. Brief facts of the complaint

Sh. Anil Kumar has filed a grievance in PGC regarding installation of a mobile tower on Shop No. 5,6,7 Subhash Market, Khichri Pur, Delhi – 110091 in a residential locality by Sh. Shiv Kumar Bansal.

2. Proceedings in the Public Grievances Commission

The PGC has convened eight hearings in the matter so far and in the hearing held on 20.10.2020, the following are present:

Complainant : Present
Respondent : Shri S.D.Tomar, EE (Bldg)-II,

3. Relevant facts that emerged during the hearing :

Sh. S.D.Tomar, Ex. Engineer (B)-II, Shahadara South Zone is present in the hearing and submitted a status report stating that :

“ 1. That the permission / NOC for installation of roof top mobile tower at the above said property was issued to Reliance Jio Info Com Ltd. vide No. EE(B)-II/Shah(S)/2018/D-2257 dated 20.09.2018 in consonance with the terms and conditions and guidelines of Mobile Tower policy as decided between Cellular Operators Associations of India & MCD in High Court case vide LPA No. 572/11.

2. That a court case titled as Anil Kumar Vs Shiv Kumar Bansal, Civil Suit bearing No.453/2019 is pending for adjudication before the Court of Ms Niti Phutela, ASCJ-cum-Guardian Judge, East, Karkardooma Court in respect of installation of mobile tower and unauthorized construction carried out at property bearing No.5/6 & 5/6, Subhash Market, Khichri Pur, Delhi.

3. That, Sh. Anil Kumar, S/o Sh. Om Prakash, 3/83, Khichripur, Delhi – 91 filed the civil suit bearing No.453/2019 with the following prayer:

a) pass a decree of permanent injunction in favour of the plaintiff and against the defendant, his agents attorneys, heirs etc. thereby restraining the defendant not to install the mobile tower in the suit property at 56 & 57, Khichripur, Delhi-91, shown in red in the site plan attached.

b) Pass a decree of mandatory injunction in favour of the plaintiff and against the defendant and his agents attorneys, heirs etc. thereby directing the defendant no.2 to 8 to demolish the illegal and unauthorized construction of the suit property bearing no. 5/6 & 5/7, Subhash Market, Khichripur, Delhi – 91, shown in red colours in the site plan attached unlawfully and illegally.

4. That the Code of Civil Procedure, 1908 (CPC) under Order VII Rule 11(1) (07 R 11) provides litigants the option to pursue an independent and special remedy, empowering courts to summarily dismiss a suit at the threshold, without proceeding to record evidence and conducting trial on the basis of the evidence adduced, if it is certified that the action should be terminated on any grounds contained in this provision.

5. That, an application has been filed by defendant no.9 under Order 7 Rule 11 CPC. The Hon'ble Court passed the following orders :

“Till date no reply to the application of defendant no.9 under order 7 Rule 11 CPC has been filed

Put up for reply and arguments on application under Order 7 Rule 11 CPC for 17.12.2020”.

6. That, the case has been posted for reply and arguments on application under Order 7 Rule 11 CPC, on 17.12.2020.

Prayer :

The issue of installation of mobile tower as well as unauthorized construction carried out at the impugned property is pending for adjudication before the Hon'ble Court. In furtherance to this, it is humbly submitted that the Department will execute the order of the Hon'ble Court in the right earnest.

Now, it is requested that the report above, may kindly be accepted and the present case may be closed on the part of EDMC."

4. Recommendations of the PGC

The matter is subjudice in the Civil Court, the orders of the Civil Court be executed in letter and spirit.

With the above directions the matter stands closed at the level of the Commission.

(SUDHIR YADAV)
MEMBER

No. PGC/2019/MCD/56/

Dated :

To:

1. Sh. A. Nedunchezhiyan, Deputy Commissioner (Shahadara South Zone), EDMC, Zonal Office Building, Vishwas Nagar Institutional Area, Behind Karkardooma Court, Delhi – 110032
2. Sh. S.D. Tomar, Executive Engineer (B), Shahadara South Zone, East DMC, Zonal Office Building, Vishwas Nagar Institutional Area, behind Karkardooma Court, Delhi – 110032

Copy or information to :

Sh. Anil Kumar