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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 03.03.2025***

+ W.P.(C) 5819/2018 and CM. Appl. 22591/2018

THE MIDLAND FRUIT & VEGETABLE PRODUCTS (I) PVT
LTDPetitioner

Through: Mr. Bhuvanesh Sehgal and Mr.
Shubham Arora, Advocates.

versus

GOVT OF NCT OF DELHI AND ORSRespondents

Through: Ms. Avnish Ahlawat, Standing
Counsel for GNCTD with Mr. Nitesh
Kumar Singh, Ms. Laavanya Kaushik,
Advocates.

Mr. R.K. Dhawan, Standing Counsel
for DDA with Ms. Nisha Dhawan and
Mr. V.K. Teng, Advocate.

Ms. Puja S. Kalra, Standing Counsel
for MCD.

Mr. S.U. Abbas, Advocate for DJB.

Mr. Bankim Garg, Advocate for
DSIIDC.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. On 15.10.2024, this Court after briefly hearing the parties, had passed the following directions:-

“1. The principal grievance of the Petitioner has been articulated in prayer (a) of the present Petition, which reads as follows:

“(a) Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent No. 1 to withdraw its letter/ dated 12.02.2018, being illegal, baseless and against the principles of natural justice;”



2. Learned Counsel for the Petitioner submits that the Petitioner was sent a communication dated 12.02.2018 by Respondent No.1/Agriculture Produce Marketing Committee. The relevant extract of the communication is set out below:

“A letter was received Dt. 14/11/2017 No. MID/2017-18 from your office regarding blockage of Sewer lines / main holes passing through APMC premises of Okhla Mandi.

The matter was already discussed with you on 20/11/2017 that main hole no. 1 to 11 of sewer line passing through your premises, main hole no. 12 to 21 main holes of sewer lines passing through APMC premises and from main hole no. 22 to 24 in jurisdiction of MCD. We have cleaned (desalting) on periodical basis as and when required. Recently we have cleaned all the sewer lines and main holes & the line is working properly.

Sir, the sewer line passing through main hole no. 1 to 11 is not in the jurisdiction of MCD/DSIIDC. So, please pursue this matter with the concern department for laying/connecting of separate sewer line from your compound.

For the time being we have connected a sewer line of 450 mm dia from our premises.”

[Emphasis supplied]

3. Learned Counsel for the Petitioner submits that the Petitioner is a commercial entity which has been in this area prior to 1979. He further submits that this Court by its order dated 28.05.2018 has stayed the impugned communication.

4. Learned Counsel for Respondent No.3/MCD relies on the provisions of sub-Section (b) and (e) of Section 9(1) of the Delhi Water Board Act, 1998 [hereinafter referred to as “the Act”] to submit that it is within the jurisdiction of the Delhi Water Board/Delhi Jal Board to undertake and maintain sewer lines.

5. Learned Counsel for Respondent No.5/Delhi Jal Board seeks to rely on the provisions of Section 15(5) of the Act to submit that it is the responsibility of the development agency to maintain sewer lines. Section 15(5) of the Act is reproduced below:

“15. Power to require water supply to be taken and to require maintenance of service pipe.

(5) It shall be the responsibility of the Development Agency carrying out, any construction, including multi-storeyed construction or additions to existing construction, to ensure provision of water supply through storage tanks, either underground or overhead, and booster pumping stations. The construction shall be the responsibility of the



Developing Agency and the maintenance and operation of the arrangements shall be the responsibility of the occupant of such premises. The board shall be responsible for giving water in the mains feeding the service pipe. The construction arrangements shall be done with the prior permission of the Board and on such terms & conditions as shall be determined by the Board.”

6. The Respondent No. 1 shall file an affidavit setting out as to the authority on the basis of which the impugned communication was issued.

6.1 Respondent No. 5 shall file an affidavit setting out their suggestion for a resolution to the issue raised by the Petitioner.”

2. The Respondent no. 1 has not complied with the directions passed by this Court on 15.10.2024.

3. Learned counsel for the Petitioner, on instructions, restricts his prayers in the present petition to prayer (d), which reads as follows:

“(d)Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent No. 1-5 to keep clean and desilt the entire drainage network from Point "M" till the Nallah from time to time in their respective jurisdictions.”

4. Learned counsel for the Respondent no. 1 submits that so far as prayer (d) concerns, vide status report dated 14.08.2023 the Respondent no. 1 has affirmed on affidavit that desilting is being carried out regularly from time to time.

5. The relevant portion of the status report is set out below:-

“That in terms of the meeting dated 27.01.2020, a Joint Inspection was conducted on 04.02.2020 by SE, DAMB, along with officials of DDA, DSUDC and DJB. Approved layout plan of storm water/sewerage drainage system of the whole area was not available with Assistant Engineer, DDA. The desilting is being carried out regularly and information regarding this is also being given to the petitioner from time to time.”

6. Learned counsel for the Respondent no. 1, on instructions, submits that the desilting is being carried out on regular basis and will continue to be



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similarly carried out.

7. So far as concerns Respondent no. 5, they have filed an affidavit on 23.11.2024 wherein it is stated that the functional sewerage line is passing along the premises of the Petitioner and in the event any further connection is required, the Petitioner is at liberty to apply for a fresh connection in accordance with the applicable norms and guidelines.

8. Given the fact that the desilting process is continuing on regular basis, the impugned communication has no basis or meaning in law. It is, accordingly, struck down.

9. The petition is disposed of in the aforesaid terms.

10. All pending applications also stand disposed of accordingly.

11. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MARCH 3, 2025/AK/jn

Click here to check corrigendum, if any