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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2191/2010 & CM No.4467/2010 (for interim relief)

NAWAB GANJ RESIDENTIAL WELFARE
ASSOCIATION

..... Petitioner

Through: Mr. Hare Ram Singh & Mr. Manoj
Barhela, Advocates.

Versus

MCD AND ORS

..... Respondents

Through: Ms. Suparna Srivastava, Advocate for
R-1Mr. Nirbhay Sharma for Ms. Anjum
Javed, Advocate for R-2 with Insp.
Vijay Kumar, PS Bara Hindu Rao,
Delhi.Mr. G.S. Raghav & Mr. Pankaj
Kumar, Advocates for R-5.Mr. Satish Bhardwaj, SHO PS Bara
Hindu Rao, Delhi.**AND**

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+ CONT.CAS(C) 637/2010

NAWAB GANJ RESIDENTIAL WELFARE
ASSOCIATION

..... Petitioner

Through: Mr. Hare Ram Singh & Mr. Manoj
Barhela, Advocate

Versus

MCD & ORS

..... Respondents

Through: Ms. Mini Pushkarna with Mr. Amit
Singh, Advocates for R-1 **1/5**

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Signing Date:30.08.2024 17:10:59
 Certify that the digital and physical file have
 been compared and the digital data is as per
 the physical file and no page is missing.

Mr. P. Mallikarjuna, Advocate for Mr.
Saleem Ahmed & Mr. Aneesh.T.S.,
Advocate for R-5 with Insp. Vijay
Kumar, PS Bara Hindu Rao, Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

02.02.2011

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1. The petitioner seeks mandamus against the respondent MCD to take action with respect to illegal and unauthorized constructions in properties no. 9221, 22, 23, 9221-22, 9632-34, 9137, 9775, 9679, 9772, 9694 & 9139 in the colony of Nawabganj, Delhi.

2. Notice of the petition was issued and the respondent MCD and the SHO, PS Bara Hindu Rao, Delhi directed to ensure that no unauthorized construction takes place in the aforesaid properties. The respondent MCD has since filed a Status Report dated 4th May, 2010 wherein the action taken with respect to each of the properties is stated. It is also stated therein that owners/occupants of some of the properties have approached the Appellate Tribunal, MCD and owing to interim orders wherein no further action can be taken. The counsel for the respondent MCD states that qua other properties where there is no interim order, the appropriate action of demolition shall be

taken. It is stated that sealing has already been affected with respect to the said properties.

3. The counsel for the respondent no.5, concerned with properties no.9632-34, states that the appeal against the demolition order has been dismissed and the respondent no.5 would be seeking appropriate remedies thereagainst. It is also stated that an application for regularization of the regularizable unauthorized construction has also been moved on 1st October, 2010.

4. In the aforesaid scenario, the writ petition is disposed of with the following directions:-

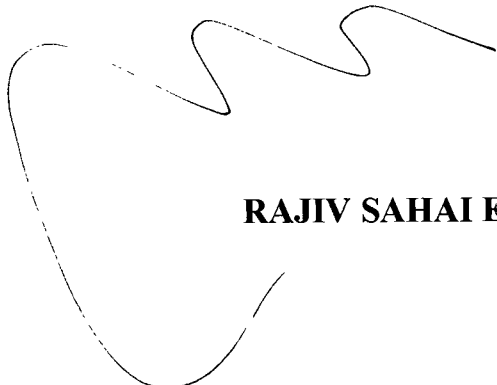
- (i) Wherever appeals are pending before the Appellate Tribunal or before the Administrator, Delhi or before any other fora with respect to the unauthorized construction complained of in this petition, the petitioner shall have a right to be heard in opposition thereto. The petitioner if so desires to make appropriate application in the pending proceedings in this regard;

- (ii) The respondent MCD is directed to take action for removal of unauthorized construction with respect to properties whereagainst there is no interim order on or before 31st May, 2011. Similarly, action with respect to other properties subject matter of interim orders, action be taken within two months of vacation of stay. The concerned Executive Engineer is made personally responsible for compliance of the order.
- (iii) The petitioner is granted liberty to approach the concerned Executive Engineer if any further unauthorized construction is found underway in any of the properties. Similarly, the petitioner shall be entitled to represent to the Executive Engineer if the action of demolition/sealing is not with respect to the entire unauthorized construction.
- (iv) The respondent MCD is directed to dispose of the application for regularization on or before 31st March, 2011. The petitioner shall also have a right to be heard in opposition to the regularization application and be served with a notice of the date of hearing therefor.

5. Contempt case has been filed averring violation of the order dated 6th April, 2010 in the writ petition directing the respondents MCD and Police to ensure that no further unauthorized construction takes place. No notice has been issued as yet. However the counsel for the alleged contemnors appears on advance notice and states that the properties were inspected on 25th October, 2010 and the seals earlier affixed were found to be intact and no further ongoing construction was found.

6. In view of the order aforesaid in the writ petition, it is not deemed expedient to entertain the contempt petition.

7. The writ petition as well as the contempt petition are disposed of with no order as to costs.



RAJIV SAHAI ENDLAW, J

FEBRUARY 02, 2011
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