

\$~Suppl.

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W P (C) 4263/2013

DR. BICHAR DASS Petitioner
Through Mr. Tanmaya Mehta, Mr. Prabodh Shukla,
Advocates.

versus

M.C.D. SOUTH Respondents
Through Mr. Ajay Arora, Mr. Kapil, Advocates with
Mr. K. C. Sharma, Assistant Engineer,
South Zone, SDMC.

AND

+ W P (C) 4264/2013

RAM AVTAR SHARMA Petitioner
Through Mr. Tanmaya Mehta, Mr. Prabodh Shukla,
Advocates.

versus

M.C.D. SOUTH Respondents
Through Mr. Ajay Arora, Mr. Kapil, Advocates with
Mr. K. C. Sharma, Assistant Engineer,
South Zone, SDMC.

AND

+ W P (C) 4265/2013

VINAY KUMAR SINGH Petitioner
Through Mr. Tanmaya Mehta, Mr. Prabodh Shukla,
Advocates.

versus

Signature Not Verified

Signing Date: 18.09.2024 16:57:12
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.

M.C.D. SOUTH

..... Respondents

Through

Mr. Ajay Arora, Mr. Kapil, Advocates with
Mr. K. C. Sharma, Assistant Engineer,
South Zone, SDMC.

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

ORDER

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08.07.2013

CM Nos.9923/2013, 9925/2013 & 9927/2013

Exemptions, as prayed for, are allowed, subject to all just exceptions.

These applications stand disposed off.

WP(C) No.4263/2013 & CM No.9922/2013

WP(C) No.4264/2013 & CM No.9924/2013

WP(C) No.4265/2013 & CM No.9926/2013

1. These petitions have been moved under similar circumstances by the petitioners who had, admittedly, purchased the properties in question sometime after a common demolition order with respect to these properties was passed by the MCD and the properties had been duly sealed, sometime in May, 2009. Of course, the petitioners' case is that they were totally unaware of this.

2. Counsel for the MCD, who appears on advance notice, along with Mr. K.C. Sharma, Assistant Engineer, South Zone, SDMC, on the other hand, asserts that sometime after the properties were sealed, it was noticed that the seals had been tampered with. Appropriate reports were filed with the concerned SHO and, in this regard, an FIR, bearing No.265/2010, was registered. Pursuant to the registration of said FIR,

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criminal proceedings were instituted against the erstwhile owners of these properties, which are still going on. It is stated that in 2013, during the course of trial, the trial court inquired from the MCD as to why properties had not been resealed. Pursuant to this, the MCD proceeded to try and reseat the properties; and a common Vacation Notice dated 13th June, 2013 came to be issued by the MCD with regard to the properties. It was served upon the petitioners.

3. It is also alleged by the petitioners that pursuant to the Vacation Notice, the team of the MCD assisted by the local police reached the premises whereupon, in two of the cases, the owners/occupiers were compelled to issue letters undertaking to vacate the premises on 3rd July, 2013. There is no such letter in the case of the third property. Of course, there is some controversy with regard to the circumstances under which these letters were written. The petitioners are stated to have approached the Appellate Tribunal, MCD, impugning the Vacation Notice and also asked for interim relief in the matter. While notice was issued by the Appellate Tribunal in the application seeking stay with regard to the Vacation Notice, interim relief was denied. It is primarily against the denial of the interim relief that the instant petitions have been filed.

4. Counsel for the respondent, inter alia, referred to paragraph 30 of the decision of the Supreme Court in Amrik Singh Lyallpuri v. Union of India & Others, (2011) 6 SCC 535, holding that in case an appeal against the order of the Tribunal is preferred, the same should have been filed before the Court of District Judge and not by way of writ, as in this case.

5. Be that as it may, in view of the fact that, admittedly, the

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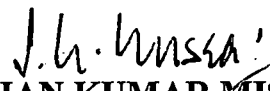
aforesaid appeal before the Appellate Tribunal is listed for tomorrow, i.e., on 9th July, 2013, and also the fact that according to counsel for the MCD it would not be possible in any case for the MCD to carry out the proposed demolition for a week or so, the interest of justice, to my mind, would be well served if these matters are disposed off with a direction to the Appellate Tribunal, MCD, to hear and dispose off the proceedings within the next two weeks, during which time, respondents shall not take any further action in the properties in question keeping in mind the fact that the petitioners claim to have entered into the possession and have been living there for nearly 2 ½ to 3 ½ years. Of course, it would be open to the petitioners to modify or amend the scope of their appeal to include any further challenge to the demolition order and the sealing orders, that are stated to have been passed by the MCD in respect of the properties in question in the year 2009.

6. Counsel for the MCD further points out that the entire record pertaining to the premises in question shall be deposited tomorrow on 9th July, 2013 during the course of hearing before the Appellate Tribunal.

7. Under the circumstances, it would be open to the petitioners to inspect the said record and the Tribunal is directed to facilitate and permit the petitioners to take copies of any portion of the same if the petitioners so desire. It is made clear that since this matter is being disposed off at this stage itself without any reply being filed by the MCD; this order is being passed without either going into or expressing any view, one way or the other, on the merits of the matter. The proceedings before the Tribunal shall be disposed off being uninfluenced by any observation made in this order.

8. It is ordered accordingly, and these petitions stand disposed off along with CM Nos.9922/2013, 9924/2013 & 9926/2013, in the above terms.

9. A copy of this order be given *dasti* under the signature of Court Master to counsel for the parties.


SUDERSHAN KUMAR MISRA, J

JULY 08, 2013
dr