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

Judgment delivered on: 15th April, 2015

+ CONT.CAS(C) 487/2013

MEENU AGGARWAL

..... Petitioner

Represented by: Mr. Sanjoy Ghose and
Mr. Akshay Goel, Advs.

versus

SDMC & ANR

..... Respondents

Represented by: Ms. Biji Rajesh, Adv. /
Proxy Counsel for Mr. Gaurang Kanth,
Adv. for R1.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Since 14.04.2015 was declared as holiday, present petition is taken up today.
2. Vide the present petition, petitioner seeks directions thereby initiating contempt proceedings against the respondent no. 1 for violating the order dated 13.05.2013 passed in W.P.(C) 3103/2013.
3. I note, Mr. Gaurang Kanth, Id. Counsel appeared on behalf of the respondent no.1 on advance notice on that day and submitted that upon receiving the complaint, the subject property was inspected and as per the owner / occupier, initially the ground floor

of the property was being used by a Bank and after the Bank has vacated the same, the property is being renovated for the purposes of being used as a residential house.

4. Upon instructions, Id. Counsel also submitted that MCD will keep a vigil over the property in question and in case there is any unauthorized construction, appropriate action in accordance with law will be taken.

5. Accordingly, the aforesaid petition was disposed of.

6. The present petition has been filed on the ground that despite the statement made on instructions by the counsel for the MCD, unauthorized construction was still going on. Therefore, vide order dated 27.10.2014, this Court directed the Executive Engineer of the area to visit the premises in question and file an affidavit with regard to the construction being raised by respondent no. 2 on the property in question.

7. He was further directed to file an affidavit to indicate as to whether there is any unauthorized construction being raised by respondent no. 2 and, if so, what action has been initiated against her.

8. Pursuant to aforesaid order, the said Officer inspected the property in question being no. E-38, G.K.-I, New Delhi on 28.10.2014 and noticed that there were deviations from the sanctioned building Plan No. 452/B/HQ/2000 dated 25.07.2000.

He also found that there was unauthorized construction in the form of deviations / excess coverage and infringement of setbacks against the aforesaid sanctioned building plan in the basement, ground floor, first floor, second floor, third floor and servant rooms, temporary store room and terrace of third floor of the said property. Accordingly, on 01.12.2014, the said Officer issued show cause notice under Section 343 / 344 of the DMC Act, 1957 to the owner / occupier of the basement, ground, first, second and third floor of the said property including the petitioner.

9. Being aggrieved, the petitioner challenged the aforesaid notice before this Court in W.P.(C) 8813/2014. However, the said petition was withdrawn on 11.12.2014 and liberty was granted to the petitioner to approach the appropriate forum in accordance with law.

10. Ld. Counsel appearing on behalf of the petitioner submits that vide order dated 24.12.2014, Appellate Tribunal of the MCD granted stay on the premises occupied by the petitioner.

11. Ld. Counsel for the petitioner further submits that the petitioner raised the issue of unauthorized construction as a whistle blower, however respondent / authority had issued notice of unauthorized construction to the petitioner itself. Thus, the petitioner has been punished.

12. The petitioner being a citizen of this Court, should keep in mind that before raising finger on the other side, one has to keep his house in order. If that is not and order is passed against any violator, even if it is a punishment, the law is taking its own cause. No one is above the law. Even whistle blower shall also be dealt accordingly.

13. One thing is established from the fact that the counsel for the respondent / MCD stated before the Court on 13.05.2013 that no unauthorized construction was going in the property in question and thereafter filed a status report, whereby stated that the building itself is unauthorizedly constructed.

14. Ld. Counsel appearing on behalf of the respondent submits that portion of the building in question was occupied by the Bank and after vacating the same some renovation work was going on. Therefore, keeping that impression into view, ld. Counsel for the MCD made a statement before this Court that no unauthorized construction was going on. Therefore, there was no intention to mislead the Court. However, when this Court directed the respondent / authority, the said authority inspected and found unauthorized construction. Accordingly, notices have also been issued as per the law.

15. In view of the facts recorded above and submissions of ld. Counsel for the parties, in my considered opinion, no contempt has

been committed by the respondents. Therefore, I am not inclined to pass any order in the present Petition against the respondents.

16. Accordingly, the petition is dismissed with directions to the to the officer of the MCD to make statement before the Court in future with caution and based on the materials on record.

17. I hereby made it clear that the observations made in the present petition, shall not be considered in any way against the petitioner. The concerned authority shall pass order in accordance with law.

SURESH KAIT, J

APRIL 15, 2015

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