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

+ W.P.(C) 1891/2016

FAREED ALI

..... Petitioner

Through: Mr.Ram Ekbal Roy, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION

& ORS

..... Respondent

Through: Mr.Devvrat , Adv. for GNCTD.

Mr.Anurag Jain with Ms.Falak
Mohammad, Advs. for R-3.

Mr.Kapil Dutta, Adv. for Mr.Ajay
Arora, Adv. for SDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **04.03.2016**

CM No.8082/2016 (exemption)

Allowed, subject to all just exceptions.

W.P.(C) 1891/2016

1. This petition by way of public interest litigation has been filed seeking a direction to the respondent Nos.1 & 2 to remove the encroachment and to demolish the illegal and unauthorized construction over the property bearing No.A-26, Khasra No.161, Jogabai, Main Road Batla House, Jamia Nagar, New Delhi-25 alleging that the same has been converted into commercial complex by the respondent No.3 in spite of the demolition order dated 28.10.2014 passed by this Court in W.P.(C) No.5839/2014.

2. Sh.Kapil Dutta, the learned counsel appearing for the respondent No.1/South Delhi Municipal Corporation, who appeared on advance notice has brought to our notice that the alleged unauthorized construction over the property in question is the subject matter of Appeal No.763/14 pending before the Appellate Tribunal for MCD and that by order dated 02.02.2016, the owner of the property has been permitted to carry out the rectification work subject to conditions stipulated therein.

3. Pointing out that the petitioner is a resident of Chandni Chowk, whereas the property in question is situated in Jamia Nagar, it is also contended by the learned standing counsel that the writ petition is motivated and the respondent No.3 has been targeted for extraneous considerations.

4. On a perusal of the order dated 28.10.2014 in W.P.(C) No.5839/2014, we found that there was no positive direction for demolition as sought to be contended by the petitioner, but the Corporation was granted liberty to take action in accordance with law against the unauthorized construction if any.

5. In the facts and circumstances of the case, more particularly in view of the pendency of the proceedings before the statutory Tribunal, we are of the view that the writ petition is nothing but abuse of process of law.

6. The writ petition is therefore dismissed with costs of Rs.25,000/- which the petitioner shall deposit with the Delhi State Legal Services Authority within six weeks from today.

CHIEF JUSTICE

MARCH 04, 2016/pmc

JAYANT NATH, J