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

+ **W.P.(C) 4158/2016**

BRIJ MOHAN DHAWAN AND ORS

..... Petitioners

Through :Mr. Vipin Tyagi, Ms. Kanu
Aggarwal and Ms. Mehak Khurana,
Advts.

versus

**NORTH DELHI MUNICIPAL
CORPORATION AND ORS**

..... Respondents

Through :Mr. G.D. Mishra, Adv. for counsel
for respondent no. 1
Mr. Rishikesh Kumar and Mohd.
Irsad, Advts. for respondent no. 2

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HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **10.05.2016**

CM Appl. No.17538/2016 (exemption)

Allowed, subject to just exception.

Application is disposed of.

WP (C) No.4158/2016 and CM Appl. No.17537/2016 (stay)

Show cause notice be issued to the respondents. Counsels for the respondent nos. 1 and 2 have appeared on advance service of paper book. Petitioners have prayed that respondents be directed to perform its statutory duties under Sections 343/344/345A/348 of the Delhi Municipal

Corporation Act, 1958 (“the Act”, for short) and demolish the property situated at 478, First Floor (terrace floor), Katra Asharfi, Chandni Chowk, Delhi – 110006. As per the petitioners, unauthorised construction has been raised by the respondent no. 3.

Counsel for the respondent no. 1 submits that unauthorised construction in the shape of one hall at first floor and second floor has already been booked on 27th April, 2016 vide file no. 98/80/B/UC/CZ/16 and a show cause notice dated 27th April, 2016 under Sections 343/344(1) of the Act has already been issued to the owner/builder. Station House Officer, Police Station Kotwali has already been requested vide letter dated 29th April, 2016 to take action under Section 344(2) of the Act and stop the unauthorized construction. However, respondent no. 3 has filed a civil suit before the ASCJ (Central District), Tis Hazari Courts, Delhi alleging therein that he is carrying on only repairs. Vide order dated 23rd April, 2016 respondent no. 1 has been restrained from causing hindrance/obstructions in carrying out the activities by the plaintiff (respondent no. 3) in the suit property as per the building bye-laws of North DMC. It has been further observed that in case, plaintiff (respondent no. 3) carries out illegal construction in the garb of repairing activities, then the action can be taken

against him by the respondent no. 1 for the same. Learned counsel for the respondent no. 1 has supplied copies of certain papers including order of trial court to the counsel for petitioners. Since a civil suit is pending in respect of the same property, I am not inclined to entertain this writ petition. However, petitioners would be at liberty to approach the trial court for their impleadment.

Petition is disposed of with the above observations. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

MAY 10, 2016
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