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

+ W.P.(C) 4196/2015 and CM Appl. no. 7596/2015

VED PRAKASH GOGIA AND ANR. Petitioners
Through : Ms. Renuka Arora, Adv.

versus

NORTH DELHI MUNICIPAL
CORPORATION AND ORS. Respondents
Through :Mr. Mukesh Gupta, Standing counsel
for respondent no. 1
Mr. Srinivas Vijay Kumar and Mr.
Vaibhav Agnihotri, Advs. for
respondent no. 2
Mr. Rajesh K. Sharma, Adv. for
respondent no. 3

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **13.05.2016**

Petitioners have prayed in this writ petition that respondents be directed to take action against the unauthorised construction carried out at the roof top of block 11 and 2 as well as in third floor flats of block 11 and 2 of DDA flats, Gulabi Bagh, New Delhi. It has been further prayed that petitioners be provided access to the common area of roof top.

Respondent no. 1 has filed status report stating therein that projection of third floor in respect of property no. 11-D was booked vide file No.

206/C-69/B-II/UC/CLZ/2014 dated 15th September, 2014. Demolition order under Section 343(1) of the Delhi Municipal Corporation Act, 1957 has been passed on 1st October, 2014. Since owner/occupier failed to comply with the instructions, contained in the demolition order for removal of the unauthorised construction within six days, demolition action was fixed for 26th December, 2014. Projection was demolished partly. Further actions were fixed for 3rd August, 2015, 26th August, 2015 and 8th September, 2015 but same could not be executed due to non-availability of police force. Action was again taken on 12th October, 2015 when the projection/balcony of third floor was demolished and made unusable. In the meanwhile, respondent no. 3 filed an appeal against the demolition order before the Appellate Tribunal, MCD.

It is further stated that unauthorised construction in the shape of entire fourth floor, that is, on the roof of third floor in respect of property no. 11-D was also booked on 27th September, 2015 and a demolition order was also passed on 16th June, 2015. On four dates, efforts were made to demolish the unauthorised construction but due to non-availability of police force it could not be demolished. It is further submitted that unauthorized construction in the shape of entire fourth floor on the roof of property no. 2-D was also

booked on 14th August, 2015. Demolition order was passed on 24th August, 2015.

During course of the hearing, learned counsel for the respondent no. 1 has pointed out that respondent no. 3 has two flats, that is, Flat Nos. 11-D and 2-D wherein unauthorized construction has been raised, inasmuch as same has been booked and efforts were made to demolish the unauthorized portion but could not materialize fully since respondent no. 3 has filed two appeals bearing nos. 645/2015 and 677/2015, wherein status quo orders have been passed.

It is clear from the above that respondent no. 1 has taken action in accordance with law against the unauthorized construction. Respondent no. 3 has filed appeals under the Delhi Municipal Corporation Act, 1957, which are pending. Law will take its own course. No further orders are required to be passed in this writ petition on this issue.

As regards prayer for providing access to common area of roof top is concerned, the same is in the nature of civil disputes between two private parties, that is, petitioners and respondent no. 3, for which petitioners are at liberty to take appropriate alternative remedies as may be available to them.

Writ petition is disposed of. Miscellaneous application is disposed of

as infructuous. Dasti.

MAY 13, 2016

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A.K. PATHAK, J.