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

+ W.P.(C) 11367/2015 & CM No.29929/2015
RESIDENT WELFARE ASSOCIATION OKHILA
VILLAGE SAMITI (REGD.) & ANR Petitioners
Through : Mr. Hemant Gupta, Adv.
versus

SOUTH DELHI MPL. CORPORATION & ORS Respondents
Through : Mr. Vikas Chopra, Adv. for R-
1/SDMC with Mr. J. S. Yadav, EE
(B), SDMC and Mr. V. D. Vashisht,
AE (B), SDMC in person.
Mr. Hasan Anzar and Mr. Dilshad
Ali, Advs. for R-2.
Mr. Uttam Datt, Adv. for R-3 with
Inspector Mangesh Tyagi SHO PS
Jamia Nagar in person.

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

ORDER
% **31.03.2016**

Petitioners have filed this writ petition under Article 226 of the Constitution of India praying therein that the respondent nos.1 & 3 be directed to take necessary sealing and demolition action with respect to the illegal and unauthorized construction in the property bearing no.41/498, Gaffar Manzil, Okhla Jamia Nagar, New Delhi. Status reports have been filed by the respondent nos.1 & 3 from time to time. In the status report dated 18th December, 2015 it is stated that property in question has already

been booked for unauthorized construction on 21st July, 2015. Thereafter, demolition order has also been passed on 14th October, 2015. Sealing proceedings under Section 345-A of the DMC Act were initiated, in accordance with law, inasmuch as, sealing orders have already been passed on 1st September, 2015 and 21st October, 2015. Stop work notice was also issued to the concerned SHO. Letters regarding disconnection of electricity and water supply have also been issued to the concerned authority on 1st September, 2015 and 8th October, 2015. Demolition action was also partially undertaken on 7th December, 2015. In the subsequent status report, it has been mentioned that the respondent no.2 had approached the Appellate Tribunal, MCD by filing appeals bearing nos.1147/2015, 1148/2015 and 1149/2015 wherein the respondent no.1 was directed to not to take any coercive action. Appeals are still pending.

On 10th March, 2016 petitioner brought to the notice of this Court that the respondent no.2 continued to raise construction upto fifth floor under the garb of the status quo order passed by the Tribunal. Accordingly, Executive Engineer of the area was directed to verify this fact and file status report. Status report has been filed pursuant to this order. It is stated therein that owner had carried out further construction in the shape of finishing work

like plastering, flooring, tiling, plumbing, wooden work, white wash etc. It is further stated that property is only upto the 4th floor. Photographs have also been annexed. It has also been mentioned in the status report that factum of violation of stay order was also brought to notice of the Tribunal on 21st March, 2016. Learned counsel for the respondent no.1 submits that application has already been prepared for vacation of the stay order and same will be filed before the Appellate Tribunal within 2-3 days.

Appeals are pending before the Tribunal. A perusal of order dated 21st March, 2016 of the Tribunal shows that the respondent no.1 has already brought to the notice of the Tribunal about the violation of the stay order and has prayed for the vacation of the stay order. Formal application is going to be filed in due course. Tribunal is seized of the matter and will deal all the aspects on merits, in accordance with law. Action has already been initiated by the respondent. The respondent no.2 has been directed by the Tribunal not to carry out any construction including repairing/plastering work, finishing work or any other activity in the property. The matter is listed before the Tribunal on 26th May, 2016. Petitioners have also filed an application under Order 1 Rule 10 CPC before the Tribunal for their impleadment in the appeals.

Since Tribunal is ceased of the matter, no further directions are required to be passed in this writ petition. Parties may approach the Tribunal for the appropriate orders.

Learned counsel for the respondent no.2, on instructions, submits that no construction including finishing work would be carried out in the property during pendency of the appeal. Mr. J. S. Yadav, EE (B), SDMC and Inspector Mangesh Tyagi SHO PS Jamia Nagar who are present in Court, are directed to keep a strict watch on the property and ensure that no further construction activity including finishing work is undertaken by the respondent no.2, during pendency of the appeal before the Tribunal. Parties shall abide by the further directions of the Tribunal passed in the appeal.

Writ petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

MARCH 31, 2016/dk