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

+ W.P.(C) 1282/2017

SUNITA MADAN & ORS.

..... Petitioners

Through Mr. Zakir Husain, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through Mr. Sanjeev Garg Adv for R-1 & 2.
Mr. Dalip Rastogi, Adv for R-3.
SI Pushpendra, PS Bara Hindu Rao.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **18.09.2017**

Petitioners approached this Court alleging unauthorised construction getting raised in property bearing no. 3229, Vikram Gali, Bahadurgarh Road, Azad Market, Delhi - 110006, claiming to be vested with some legitimate rights in the property. In the status report filed on behalf of the respondent no.1, it is stated, as follows:

“4. That the property bearing no. 3229, Gali Vikram, Bahadurgarh Road, Delhi, was initially booked by the answering respondent vide File No. 391/B/UC/SPZ/2016 dated 22.11.2016 for unauthorised construction of ground floor and raising of walls and columns of first floor and thereafter further unauthorised construction of first floor, second floor and walls, pillars at third floor was booked vide File No. 77/B/UC/SPZ/17 dated 28.03.2017 and after following the due process of law, the demolition orders were passed on 18.05.2017. Photocopies of the demolition orders are being filed herewith as ANNEXURE R-1 COLLI.

5. It is submitted that the owner/occupier of the property

Shri Sudhir Madan preferred an appeal bearing No.222/2017 before the Appellate Tribunal (MCD) and the Hon'ble Appellate Tribunal vide order dated 07.04.2017 restrained the answering respondent from taking demolition action. It was further directed by the learned Tribunal to submit the record pertaining to the property before him and accordingly the same has been submitted before the learned Tribunal. The matter has now been listed for 13.09.2017 for arguments. A copy of the order passed by the learned Tribunal in the said appeal is being filed herewith as ANNEXURE R-2."

As per the abovesaid status reported to on behalf of the respondent no.1, the property was booked for unauthorised construction in the form of ground floor and raising of walls and columns of first floor as on 22.11.2016 and as of today, ld. counsel for the petitioner strenuously contends, it is now four storeyed building. As for the demolition order, Mr. Rastogi, ld. counsel for the respondent no.3 submits that an appeal has come to be preferred and the Ld. AT, MCD has issued injunction order on 07.04.2017 against demolition. As against another order passed under Sections 343 and 344 of DMC Act dated 18.05.2017, which is annexure R-2 to the status report, and, whereby, the respondent no.3 alongwith Mr. Sushil Madan and Mrs. Vertika Madan have been directed to demolish First Floor, 2nd Floor and 3rd Floor with projection on Municipal land, it is stated that it has also come to be challenged by way of statutory appeal before AT, MCD and such appeal is listed before AT, MCD for tomorrow.

In view of the fact that four storeyed unauthorised construction has come to be raised without sanction of any building plan, and, but for only paper work having been done by the concerned officers/officials of the respondent-North DMC, and, possibly, the

local police, no effective steps were taken to ensure stoppage of unauthorized construction, the Commissioner, NDMC and the Commissioner of Police, Delhi are directed to take similar action in the instant case also, as was directed in WP(C) 5882/2017 Deepak Jaiswal vs. South Delhi Municipal Corporation & Ors., on 28.8.2017. Writ petition is disposed off accordingly. Should any further cause of action arise for any act of omission or commission attributable to the respondent no.1 or Delhi Police, the petitioner would be at liberty to approach this Court afresh on such fresh cause of action. It is made clear that no observation made by this Court in the instant proceedings shall have any bearing on the merits of the respective contentions of any of the parties and any of the appeals preferred by the respondent no.3 shall be decided by AT, MCD on its own merits.

A. K. CHAWLA, J

SEPTEMBER 18, 2017

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