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

+ W.P.(C) 5248/2017 and CM APPLs. 22287/2017, 33431/2017 & 36904/2017

DR. FAZAL-UL-HAQUE Petitioner
Through Mr. Anuj Gupta, Advocate

versus

NORTH DELHI MUNICIPAL CORPORATION & ANR

..... Respondents
Through Mr. Jagdeep Sharma, Standing
Counsel for R-1 with Mr. Prashant
Bharagava, Advocate
Mr. Diwan Singh Chauhan, Advocate
for R-2

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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05.12.2017

Instant petition came to be filed alleging unauthorised construction in property bearing no. 2153, 2162 and 2163, Rodgran, Lal Kuan, Delhi-110006. In the status report that has come to be filed on behalf of the respondent-NDMC, it is stated as under:

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.....

3. That the petitioner is praying for writ of mandamus for demolition of unauthorized construction at the being carried out at the above said property. It is stated that the records maintained by the Building Department, C-SPZ, of the North DMC has been requisitioned and on perusal of the same, it reveals that the inspection of the property in question was carried out on 06.07.2017 and during the course of inspection, it

revealed that the owner/Builder namely Salman (Builder) has carried out the unauthorized construction in the form of “U/C of third floor, fourth floor and fifth floor without any permission/sanction from the MCD and the same has been booked under Section 343/344 of the DMCT Act, 1957 vide U/C File No.169/B/UC/SPZ/2017 dated 06.07.2017. Show cause notice dated 06.07.2017 has also been issued and served upon the owner/builder to show cause as to why the aforesaid booked unauthorized construction be not demolished. In response to the show cause notice, no reply was received within the stipulated time and the demolition order dated 28.07.2017 was passed asking the owner/builder to demolish the aforesaid booked unauthorized construction within 6 days but no compliance was made and according the demolition order dated

3. 09.08.2017 was passed as per policy. The photocopy of the Show Cause Notice dated 06.07.2017 and demolition order dated 009.08.2017 are appended herewith as Annexure R-1.

4. That the deponent further states that the steps to execute the demolition order, as afore mentioned, were taken but the action on 10.08.2017 could not be taken as one Sh. Sartaj Ahmad, occupier submitted the request for shifting family. It is pertinent to mention that Sh. Sartaj Ahmad challenged the demolition order passed by the answering respondent in respect of the premises in question by way of appeal No. 767/2017 titled Sartaj Ahmad Vs. North DMC before the Appellate Tribunal MCD which was remanded back for fresh decision vide order dated 22.09.2017.

5. That the deponent further states that apart from the above, the sealing action under section 345-A of the DMC Act against unauthorized construction has been initiated and sealing order has been passed vide No. 40/50/B/CSPZ/17 dated 08.09.2017.

6. That the deponent states that in terms of the order passed by the ATMCD, the haring is under process and the same will be concluded in due course of time on priority.

Further action is under Contemplation and will be taken after following due process of law.”

In view of the action taken and in contemplation, Id. Counsel

for the petitioner submits that he has instruction to withdraw the petition.

In view of the action taken and contemplated, the petition is disposed off. Liberty is however, reserved to the petitioner to approach this Court afresh, if, a fresh cause of action arises.

A. K. CHAWLA, J

DECEMBER 05, 2017

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