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

+ W.P.(C) 7987/2017 CM APPL. 32946/2017

SAILA TAMANG AND ANR.

..... Petitioners

Through Mr. Javed Ahmad, Mr. Anis Ahmad
and Mr. Pradeep Kumar, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through Mr. Rajeshwar Dagar, Standing
Counsel for R-1 to 3 with Mr.
Manohar Lal (AE), South Zone for
SDMC.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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12.09.2017

In this petition under Article 226 of the Constitution of India, the petitioners asserting to be the owner and being in occupation of 4th and 5th floor of the property bearing no. T-63B, measuring 70 Sq. Yards at Khirki Extension, Malviya Nagar, New Delhi, in short 'the subject property' allege that the officials of the respondent no.1-SDMC in connivance and collusion with the respondent no.4 have illegally demolished the subject property and as a consequence thereof, made prayers, as follows:

“(a) Issue a writ of mandamus, directing the Respondents to pay monetary compensation/damages to the Petitioners who have suffered mental agony as well economic loss on account of illegal and arbitrary action of the Respondents.

(b) Pass directions for the commencement of appropriate legal proceedings against Respondent No.4.”

During the course of hearing, Mr. Dagar, Ld. Standing Counsel for respondent nos. 1 submits that the subject property was booked for the unauthorised construction on 27.11.2015, and, a demolition order was passed on 14.12.2015, and, as a consequence thereof, it was partly executed on 17.12.2015. Ld. counsel for the petitioner on his part submits that the petitioners were neither served with any Show Cause notice nor the demolition order. It is refuted to on the part of Ld. counsel for the respondent no.1. In the submissions of the Ld. counsel for the respondent no.1, Show Cause notice as also the demolition order were duly served. Whether the demolition came to be carried out illegally without service of any Show Cause notice and passing of demolition order in accordance with law or not, is thus a disputed question of fact, this Court refrains to get into, in the exercise of its writ jurisdiction. Suffice to say, against the demolition order, a statutory remedy by way of an appeal is provided and in the event, the petitioners are aggrieved of such demolition order, which, according to the petitioners, has come to be passed without even service of any Show Cause notice, the appellants are at liberty to approach the concerned AT, MCD in accordance with law and till the time, any finding comes to be returned by the concerned authority as to whether the demolition order has come to be passed illegally or not, the prayer made for damages as claimed, in any event, is not be sustainable. In view of foregoing, when the respondents have taken a plea for the demolition action having been carried out following due process of law, it becomes irrelevant as to whether the respondent no.1 initiated the action for the alleged unauthorised construction on the 4th and 5th

floor either on the information/complaint made by the respondent no.4, or not.

In view of foregoing, this Court does not find any merit in the instant proceedings, especially, at this stage. Writ petition is disposed off accordingly.

A. K. CHAWLA, J

SEPTEMBER 12, 2017

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