

\$~37

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

+ **W.P.(C) 2888/2018**

BRIJ BIHARI SHARMA

..... Petitioner

Through: Ms. Toral Banerjee, Adv.

versus

EAST DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Mr. Ajjay Aroraa and Mr. Kapil
Dutta, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

04.05.2018

This petition has been filed by the petitioner with the following prayers:

“Therefore, on the facts and in the circumstances of the case, it is therefore, most humbly and respectfully prayed that this Hon’ble Court may kindly be pleased to: -

(i) Issue an writ or directions in the nature of Prohibition thereby prohibiting the respondent from demolishing the property bearing No.F-117, Gali No. 10, West Jyoti Nagar, Delhi 110094, till the hearing of appeal being Appeal No. 87 of 2018 titled as “Brij Bihari Sharma v. East Delhi Municipal Corporation”, by the Ld. Presiding Officer, M.C.D/D.D.A, Tribunal in the interest of justice;

(ii) Pass any such other or further orders as this Hon’ble Court may deem fit and proper on the facts and in the circumstances of the case, in favour of the petitioner and against the Respondent.”

When the matter was listed on March 22, 2018, this Court has passed

the following order:

“It is the submission of Mr. N.S. Dalal, learned counsel for the petitioner that petitioner has filed an appeal before the Appellate Tribunal (MCD) in the month of January, 2018 in which notice has been issued but because of the pendency of a PIL, the petitioner has approached the Division Bench of this Court seeking clarification, which has been given by the Division Bench vide its order dated March 5, 2018. According to him, pursuant to the clarification given by the Division Bench, the petitioner had made an application for early hearing of the appeal before the ATMCD as a vacation notice dated March 09, 2018 was issued by the respondent. Unfortunately, the application could not come up for hearing because the position of the Presiding Officer, ATMCD is vacant. He pleads, if the protection is not granted to the petitioner, respondent shall seek the implementation of the vacation notice dated March 9, 2018, making the appeal infructuous. Noting the fact, the position of the Presiding Officer ATMCD is vacant, I deem it appropriate to re-notify the matter on April 4, 2018 directing the respondent not to take any coercive action till that date.

Learned counsel for the petitioner states, an appeal has been filed by the petitioner before the ATMCD and the next date of hearing is August 23, 2018. If that be so, the petitioner shall file an application for early hearing of the appeal / stay application on or before May 18, 2018. On filing of such application, the appeal / stay application shall be heard by the Tribunal on May 18, 2018, *de-novo* without being influenced by the protection granted by this court.

Till May 18, 2018, protection granted by this court on March 22, 2018 shall continue.

The parties shall produce this order before the ATMCD for its perusal and consideration.

Petition stands disposed of.

CM. No. 11664/2018

The application has become infructuous. The same is disposed of as such.

Dasti.

V. KAMESWAR RAO, J

MAY 04, 2018/jg