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

+ **W.P.(C) 2539/2019**

SATPAL SINGHAL & ORS.

..... Petitioners

Through: Mr. Avadh Kaushik and Mr. Devashish
Maharishi, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through: Mr. Garima Prashad, Standing Counsel
SDMC

Mr. Mohit Mathur, Sr. Adv. with Mr. Medhanshu
Tripathi and Mr. A.K. Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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24.07.2019

CM Nos.33048-33049/2019

1. On the last date of hearing i.e. yesterday on 23.7.2019 this court had passed the following order:

*“Learned counsel for the SDMC states that a status report shall be filed during the course of the day. The statement is taken on record. She further states that a further action of demolition is scheduled on July 24, 2019. If that be so, let a further status report be filed within four weeks. Respondent Nos.4 and 5 shall also file a status report within the same period. The same shall be filed by the concerned SHO. The petitioner shall be at liberty to file a composite response to the status reports, to be filed by the respondents within two weeks thereafter
List these applications on July 24, 2019.”*

2. In the status report filed by the SDMC para 4 thereof reads as under:

“4. That as per record on inspection of the property in question and jupon perusal of the record, the status of the actions as already taken/carried out by the Building Department-II, South Zone till date are entailed herein below:-

i. The subject property has been identified as Plot No.532, near Bandh Road, Bank Colony, Devli, New Delhi which is already stands booked vide file no.57/UC/B-II/SZ/19 dated 18/02/2019 in the shape of erection of columns and walls at Ground floor, further booked vide file no.127/UC/B-II/SZ/19 dated 01/04/2019 in the shape of Ground floor, First Floor, Second Floor and raising of columns above and further booked vide file No.189/UC/B-II/SZ/19 dated 10/05/2019 in the shape of Third floor (in continuance to earlier bookings no.57/UC/B-II/SZ/10 dated 18/02/19 and 127/UC/B-II/SZ/19 dated 01/04/2019) and vide file No. 189/UC/B-II/SZ/19 dated 10/05/2019 in the shape of Third floor for taking the appropriate necessary demolition action u/s 343/344 of DMC Act. Upon following the due process of law in this regard the necessary demolition orders also stands passed by the competent authority i.e. the AE (Bldg), South zone on 26/02/2019, 11/04/2019 and 21/05/2019 respectively. The copy of the demolition orders/notices in this regard are annexed herewith as Annexure-A(Colly).

ii. That furthermore, letter bearing No.D-3910/AE(B)/SZ/19 dated 07/03/2019 u/s 344(2) of the DMC Act, has also been sent to SHO, PS. Neb Sarai with the request that the unauthorized construction be stopped and workmen present at site/property in question be removed and construction material including the tools, machinery, etc. be seized. Copy of the said letter is annexed as Annexure-B.

iii. That besides this letter for disconnection of electricity and water supply from the aforesaid property has also been sent to the concerned authorities vide letter no.D/3908/EE(B)-II/SZ/19 dated 07/03/2019. Copy of the

said letter is annexed as Annexure-C.

iv. That, moreover, a letter bearing no.D/3909/EE(B)-II/SZ/2019 dated 07/03/2019 has also been sent to the Sub-Registrar with the request not to register this property under Indian Registration Act, 1908. Copy of the said letter is annexed as Annexure-D.

v. That further it is also relevant to point out that in respect of the property in question the necessary sealing proceedings u/s 345-A of DMC Act, has also been initiated and upon following due process in this regard the sealing order also stands passed by the competent authority i.e. Dy. Commissioner of South zone/SDMC vide dated 21/05/2019. Copy of sealing order is annexed herewith as Annexure-E.

vi. That in order to execute the aforementioned demolition/sealing orders already passed, the Building Department-II of South Zone/SDMC has taken/carried out the demolition action as per details given herein below:-

<i>S. No.</i>	<i>Date of Action</i>	<i>Action Taken</i>
<i>1</i>	<i>15/03/2019</i>	<i>During the course of demolition action Ground floor roof slab & First floor roof Slab have been demolished/cut down with the help of gas cutter upon availability of police force.</i>
<i>2</i>	<i>02/04/2019</i>	<i>During the demolition action First floor roof slab cut one panel by cutting of reinforcement bars with the help of gas cutter besides this 02 walls at First floor and 01 wall at Second floor have been demolished upon availability of police force.</i>
<i>3</i>	<i>16/04/2019</i>	<i>Action could not be taken/carried out due to non availability of police force.</i>
<i>4</i>	<i>23/04/2019</i>	<i>Action could not be taken/carried out due to non availability of police force.</i>
<i>5</i>	<i>29/04/2019</i>	<i>Action could not be taken/carried out due to non availability of police force.</i>
<i>6</i>	<i>21/05/2019</i>	<i>During the course of sealing action entire</i>

		<i>property has been sealed at 10 points at Ground floor upon availability of police force.</i>
7	22/05/2019	<i>During the routine area inspection the field staff noticed that the seal affixed by the department was found tempered with, consequently a complaint bearing no.D-704/DC/Bldg.-II/SZ/2019 dated 06/06/2019 for lodging of an FIR u/s 448/188 of IPC read with Section 461 of DMC Act has been sent to Dy. Commissioner of Police, South District Hauz Khas, New Delhi.</i>
8	15/07/2019	<i>During the sealing action the property has been again re-sealed at 10 points at Ground floor.</i>

The photographs taken during the aforementioned demolition/sealing actions, copy of complaint dt.06/0-6/2019 and no force letters in this regard are annexed herewith as annexed herewith as Annexure-F (Colly).

vii. That it is also submitted that after taking the aforesaid demolition/sealing action the necessary letters have also been sent to concerned SHO, PS, Neb Sarai, new Delhi with the request to direct the concerned field staff to keep strict watch and ward over the alleged property so that the demolished portion be not restored / reconstructed. The copy of the letters in this regard are also annexed herewith as Annexure-G(Colly).

5. That further action in respect of the subject property will be taken / carried out during the monthly demolition schedule of the area in question upon availability of police force.”

3. From the status report it is clear that the SDMC is taking action against the property in question. Copies of the demolition orders have also been annexed along with status report.

4. Mr. Mohit Mathur, learned Senior Counsel appearing for the applicants state that the applicants have not received any demolition orders.

As I find that the demolition orders have been annexed along with status report filed by SDMC, a copy of the status report has been directed to be handed over to Mr. Mathur. At this stage, Mr. Mathur, states that the applicants in these applications shall seek their remedy before the ATMCD in accordance with law. In view of the aforesaid submission, the present applications have become infructuous.

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5. In so far as the writ petition is concerned the prayers are the following:

“In view of the above facts and circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to issue:-

(i) A Writ of Certiorari or any other writ, order or direction calling for the records of the case and peruse the same;

(ii) A Writ of Mandamus or any other writ, order or direction thereby directing the respondents to forthwith stop, demolish and remove the illegal and unauthorized construction from the Lal Dora land bearing Khasra No. 532, Bank Colony, Village-Devli, New Delhi;

(iii) A Writ of Mandamus or any other writ, order or direction thereby directing the respondents to book the culprits responsible for unauthorized constructions of the building and for blocking the gali/thorough fare;

(iv) Imposing heavy and exemplary costs upon the respondents/authorities concerned for a grossly illegal, negligent and callous inaction and abdication of public duty/responsibility by not taking requisite action in time against illegal constructions despite complaints, requests and information;

(v) Any other relief, order or directions which this Hon'ble Court considers just and fit in the circumstances of the case, may also be passed in the interest of justice.”

6. As the respondent corporation has issued the demolition orders, Mr. Kaushik, learned counsel appearing for the petitioner states that the prayer as made in the writ petition have been met, the petitioners shall withdraw the writ petitions but subject to the petitioners being allowed to intervene in the appeal to be filed by the applicants in CM. Nos. 33048/2019 and 33049/2019.

7. Noting the aforesaid submission, it is made clear that if an application for intervention is made before the ATMCD, the Tribunal shall consider the application favourably.

In view of this order, Mr. Kaushik states that the writ petition be disposed of as such. Ordered accordingly.

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Dismissed as infructuous.

The date already fixed i.e. 04th September, 2019, stands cancelled.

Dasti.

V. KAMESWAR RAO, J

JULY 24, 2019/k