

\$~74

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

+ **W.P.(C) 3268/2019, CM No. 15029/2019**

MOHD. NIZAMAUDDIN SHAIKH Petitioner

Through: Mr. S. Hussain and Mr. Ankit Khatri,
Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

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

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **01.04.2019**

CM No. 15030/2019 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 3268/2019, CM No. 15029/2019

The present petition has been filed by the petitioner with the following prayers:

“It is, therefore, most respectfully prayed that the this Hon’ble Court of Delhi may kindly be pleased to pass necessary direction:-

i. Pass an ex-part interim order thereby directing the respondents not to conduct any further demolition till the final disposal of the present miscellaneous civil petition.

ii. Pass any Interim order / relief / remedies for stay from demolition till the final disposal of section appeal which is

pending before the Ld, Appellate Tribunal M.C.D. Tis Hazari Courts Delhi in favour of the petitionr

iii.Pass Stay on demolition vide order dated 05.08.2015 passed by the Ld, Hon'ble High Court of Delhi At Delhi Justice Mr. Rajiv Shai Endlaw.

iv.Pass any other expedite the second appeal which is pending before the Ld. Appellate Tribunal M.C.D. Tis Hazari Courts Delhi and to set aside order dated 22.03.2019.

v. Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice in favour of the petitioner.”

It is the conceded position that against the demolition order passed against the petitioner, the petitioner had filed an appeal before the ATMCD, bearing Appeal No.844/2015. The said appeal was withdrawn by the appellant. There is no dispute that a second appeal has been filed by the petitioner being appeal No.795/2018.

Mr. Ajjay Aroraa, learned counsel appearing for the respondent states that on the basis of a petition filed by Mr. Arshad Ali, being W.P. (C) 7426/2015, wherein a direction had been given by this Court to demolish unauthorised construction existing at the property of the petitioner, the demolition action is being taken. He also states that a contempt petition has

been filed by Mr. Arshad Ali, wherein the Corporation is required to file a compliance affidavit.

Be that as it may, it is the submission that the second appeal, being Appeal No. 795/2018, is pending consideration before the ATMCD and an issue has arisen whether the said appeal is maintainable. The Tribunal has re-notified the matter on May 06, 2019, for hearing.

The plea of the learned counsel for the petitioner is that the application for stay is not being decided and it is apprehended that the respondent Corporation shall demolish the property for the third time. He states that the stay application should be decided at the earliest. Mr. Ajjay Aroraa has no objection in that regard.

Noting the submission made by the learned counsel for the parties, it would be appropriate in the facts of this case to direct the Tribunal to decide the stay application at the earliest. Accordingly, it is directed that the petitioner shall file an application for preponement of date May 06, 2019 to an earlier date. The ATMCD shall hear the petitioner on the same date or a date convenient to it, but it should be before May 06, 2019 as there is an apprehension of the petitioner with regard to the demolition by the NDMC.

With the aforesaid, the writ petition is disposed of.

CM No. 15029/2019

Dismissed as infructuous.

V. KAMESWAR RAO, J

APRIL 01, 2019/aky