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

+ W.P.(C) 4588/2019
+ W.P.(C) 4591/2019
+ W.P.(C) 4592/2019
+ W.P.(C) 4630/2019

PINKI BISHT
BANDANA MISHRA
KAVITA MISHRA
BRAJ BHUSHAN CHAUDHARY

..... Petitioners

Through: Mr. Ajit Kumar, Ms. Nikita Sharma,
Ms. Sanjam Chaba and Ms. Anita
Singh, Advs.

versus

BSES RAJDHANI POWER LIMITED
AND ANR.

..... Respondents

Through: Mr. Anupam Verma, Mr. Nikhil
Sharma and Mr. Aditya Gupta, Advs.
for R1 and R2.
Mr. Ajjay Aroraa, Mr. Kapil Dutta,
Mr. Anuj Bhargava, Advs. for
SDMC.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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29.05.2019

The present batch of petitions has been filed by the petitioners with
the following prayers:

"It is, therefore most respectfully prayed that this Hon'ble

Court may kindly be pleased to:

a) Issue appropriate writ (s), order (s) or direction (s) in the nature of mandamus or any other appropriate writ thereby directing the Respondent No.1 to take appropriate steps to provide electricity connection to the petitioner.

b) Pass such other and further orders which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

A status report has been filed by the respondent / SDMC in all these petitions, wherein following has been stated:

3. That on inspection of the property in question and upon 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 identified as property adjacent 201-F-4, Ward No.2, Mehrauli which already stands booked vide file No. 432/UC/B-II/SZ/15 dated 29/07/2015 in the shape of Stilt to Ground floor and further booked vide file No. 431/UC/B-II/SZ/2016 dated 02/11/2016 for unauthorized construction in the shape of First floor to Third floor without sanction / permission from SDMC for taking the 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 stand passed by the competent authority i.e the AE (Bldg), South Zone on 13/08/2015 and 08/11/2016 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-1213/AE(B)/SZ/15 dated 18/08/2015 u/s 344(2) of the DMC Act, has also been sent to SHO, PS Mehrauli with the request that the said unauthorized construction be

stopped immediately and workmen present at site / property in question be removed and construction material including the tools, machinery, etc. be seized. Copy of the said letters are annexed as Annexure-B.

iii) That besides this letter for disconnection of electricity and water supply from the aforesaid property have been sent to the concerned authorities vide letter No. D/1214/AE(B)/SZ/15 dated 18/08/2015. Copy of the said letter is annexed as Annexure-C.

iv) That, moreover, a letter bearing No. D/1215/AE(B)/SZ/2015 dated 18/08/2015 has also been sent to the Sub-Registrar with the request not to register this property under India Registration Act, 1908. Copy of the said letters is annexed as Annexure-D.

v) That besides this, prosecution action u/s 466-A of the DMC Act, has also been initiated against the owner / occupier of the subject property and a complaint letter bearing No. D/1288/DC/SZ/15 dated 31/08/2015 has been sent to concerned SHO, PS Mehrauli. The copy of the said complaint is annexed herewith as Annexure-E.

vi) That in order to execute the aforesaid sealing / demolition orders already stands passed in respect of the subject property, a Vacation Notice bearing No. 2841/AE(B)/SZ/2018 dated 10/01/2018 u/s 349 of DMC Act, has also been issued and served upon the owner / occupier of the property and a copy thereof has also been sent to SHO, PS Mehrauli to get the impugned premises / portion vacated. The copy of the Vacation Notice in this regard is also annexed herewith as Annexure-F.

vii) 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, have also been initiated and upon following the due process in this regard the necessary sealing order vide bearing No.3191/Seal/DC/SZ/bldg/2018 has also been passed by the competent authority i.e Dy. Commissioner, South Zone/DMC on 23/04/2018. Copy of sealing order in

this regard is also annexed herewith as Annexure-G.

4. *That further as per record pursuant to aforesaid demolition / sealing order already passed in respect of the instant property, the Department has also taken / carried out the following actions:-*

S.No.	Date of Action	Action Taken
1	20/09/2016	During the course of demolition action roof slab of Third floor has been demolished and reinforcement cut by the gas cutter upon availability of police force.
2	17/11/2016	During the course of demolition action roof slab of Third floor has been demolished and reinforcement cut by the gas cutter upon availability of police force.
3	23/04/2018	During the sealing action property has been sealed at Ground floor -03 points, First floor-04 points, Third floor-04 points upon availability of police force, remaining portion could not be sealed due to occupancy of owner / occupier, given undertaking to provide some more time to vacate the premises.

5. *That further it is also stated that after taking demolition on 17.11.2016, sealing action was taken on the same date. However, seal affixed by the Department was found tampered with, and taking cognizance of the same, the matter for lodging complaint with the Police Authorities has already been initiated.*

6. *That it is also submitted that in order to take / carry out further action in respect of the subject mentioned property the Building Department-II of South Zone / SDMC has again sent a Vacation Notice bearing No. D-498/AE(B)/SZ/2019 u/s 349 of DMC Act, on 06/05/2019 with the copy of SHO, Mehrauli to get the premises / portion vacated so that further action in respect of the same could be taken accordingly. The copy of the letter in this regard are annexed as Annexure-H.*

7. *That further action in respect of the impugned property will be taken / carried out during the monthly demolition / sealing program / schedule of the area in question upon availability of police force.*

8. *That the letters for dis-connection of electricity and water connections are being sent by the Department in pursuance of Office Order No.D/891/Addl.Cm.(E)/2007 dated 13.12.2007 of erstwhile M.C.D.*

In view of the fact that the properties are unauthorized and action for sealing, demolition and vacation has been taken, the prayer made in these petitions seeking electricity connection cannot be granted.

The petitions are dismissed.



V. KAMESWAR RAO, J

MAY 29, 2019/jg