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

+ **W.P.(C) 5362/2019**

**INDERJIT TOKAS**

..... Petitioner

Through: Mr Mahavir Singh, Mr Panchajanya  
Batra Singh and Mr Amir Suhail,  
advocates.

versus

**PUBLIC WORKS DEPARTMENT, DELHI  
& ORS**

..... Respondents

Through: Ms Saumya Tandon, Advocate for R-  
1 and R-2.  
Mr G. D. Mishra, Standing Counsel  
for R-3/SDMC.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**16.05.2019**

**CM No.23625/2019**

1. Allowed, subject to all just exceptions.

**W.P.(C) 5362/2019 & CM No.23624/2019**

2. Issue notice. The learned counsel appearing for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia*, praying that respondent no.1 (PWD) be restrained from demolishing the staircase leading to the shops/property of the petitioner till the final outcome of the Civil Suit No.372/2012 pending before the court of learned Senior Civil Judge, Dwarka, New Delhi.

4. The learned counsel appearing for the petitioner states that no notice for any demolition has been given, however, it is apprehended that the staircase in question would be demolished. She has also relied on the status report dated 15.05.2013 submitted by respondent no.3 (SDMC), which records that there is an open staircase of a temporary nature leading to the first floor from adjoining property L-92, Munirka Village.

5. It is apparent that the principal question is whether the staircase is constructed in accordance with law or not. Clearly, if the staircase is not authorised as per the building bye laws, it is required to be demolished and no injunction can be granted against respondent no.1 restraining it from acting in accordance with law. The contention that the staircase was made a long time back and, therefore, the same cannot be demolished, appears to be unmerited as even according to the petitioner, the said staircase is only a temporary structure.

6. Having stated above, it is trite law that before any action is taken, the appropriate authority may provide the party concerned an opportunity to be heard. Although, the respondents are not precluded from taking any action in accordance with law, it would be necessary for the respondents to give a prior notice before taking any action.

7. The petition is disposed of with the aforesaid observations. The pending application also stands disposed of.

8. Order *dasti* under signatures of the Court Master.

**VIBHU BAKHRU, J**

**MAY 16, 2019/MK**