

\$~36

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 9th October, 2019
+ **CM(M) 1462/2019**

M/S GURUNANAK FASHION STUDIO PVT. LTD. Petitioner
Through: Mr. Sudhir Makkar, Sr. Advocate
with Mr. Rajnish Ranjan, Mr.
Shashwat V. Dubey, Ms. Shashi K.
Gupta, Advocates (M-9610820492).

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent
Through: Mr. Akhil Mittal, Standing Counsel
along with Mr. Avinash Gupta, AE
(M-9212504099).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present petition has been filed challenging the impugned order dated 4th October, 2019 wherein the Petitioner's prayer for ex-parte ad-interim stay was rejected by the Id. Trial Court. The apprehension of the Petitioner is that the property bearing No. 6/81, WEA Karol Bagh, New Delhi – 110005 (*hereinafter, "suit property"*), is likely to be further demolished by the North Delhi Municipal Corporation (*hereinafter, "NrDMC"*), which has already carried out part demolition. Thus, interim orders are prayed for to protect the suit property, with an undertaking that no further construction would be carried out in the suit property.

2. On the other hand, Id. counsel appearing for NrDMC submits that the request for regularization made by the Petitioner in respect of the suit property has already been rejected by order dated 1st October, 2019. He relies on the order passed by the Supreme Court on 28th January, 2019, to

the following effect:

“....

Considered the report No.145 dated 24.01.2019.

Mr. Ranjit Kumar, learned senior counsel, who is appearing as an amicus in this matter has pointed out before us the order dated 23.01.2019 passed in LPA No.6/2019 by the Division Bench of the High Court of Delhi at New Delhi. Suffice it to say that vide judgment dated 15.12.2017 (in I.A. Nos.93010 and 93007 of 2017 in W.P (C) No.4677/1985, reported in (2018) 2 SCC 144), this Court has passed a judgment and observed in paragraphs 38 and 39, as under:-

“38. We make it clear that henceforth it will not be necessary for any person whose residential premises have been sealed for misuse for any commercial (other than industrial) purposes at the instance of the Monitoring Committee to file an appeal before the appropriate statutory Appellate Tribunal. Instead, that person can directly approach the Monitoring Committee for relief after depositing an amount of Rs. 1,00,000/- with the Monitoring Committee which will keep an account of the amounts received by it. Any person who has already filed an appeal before the appropriate statutory Appellate Tribunal but would prefer approaching the Monitoring Committee may withdraw the appeal and approach the Monitoring Committee for relief on the above terms and conditions and on deposit of Rs. 1,00,000/- as costs with the Monitoring Committee, provided that the premises were sealed at the instance of the Monitoring Committee. Any challenge to the decision of the Monitoring Committee will lie to this Court only. We are constrained and compelled to make this order given the history of the case and the more than serious observations of this

Court of an apparent nexus between some entities and the observations regarding corruption and nepotism. 39. We make it clear that this order will enure to the benefit of only those who are using residential premises for commercial purposes (non-industrial) or for any other non-residential purpose and whose premises were sealed at the instance of the Monitoring Committee. This order will not at all enure for the benefit of anybody using residential premises for any industrial activity of any sort or nature whatsoever.” (Emphasis supplied)

This Court has made it clear that any challenge to the decision of the Monitoring Committee will lie to this Court only. Apart from that this was reiterated again by this Court. On 07.09.2018, this Court, *inter alia* passed the following order:-

“... It is stated that some of the defaulting individuals/organizations are approaching the Courts - whether it is the High Court or the District Court and even in one case the State Consumer Disputes Redressal Commission. It is submitted by the Monitoring Committee that these Courts and the Commission do not have any jurisdiction over these issues in view of the order passed by this Court. The learned Amicus will bring it to the notice of the Courts and the Commission that prima facie jurisdiction does not lie with them leaving it for the Courts to take a decision in the matter.”

Again on 27.11.2018, the Court, *inter alia*, passed the following order:-

“... The Monitoring Committee has brought to our notice that other Courts/Tribunals/Authorities including the State Consumer Commission and District and Sessions Judge are entertaining the petitions

despite order passed by this Court. We have requested Mr. A.D.N. Rao to look into these cases. We reiterate that no Court or Tribunal or any other Authority shall look into these matters as well as the petitions which are pending before us.”

In view of the aforesaid, prima facie, we stay the operation of the order dated 23.01.2019 passed by the High Court of Delhi at New Delhi in LPA No.6/2019 and restrain the High Court to entertain any petition in connection with the matters relating to the Monitoring Committee, as these matters are to be heard by this Court only....”

3. Mr. Sudhir Makkar, Id. Senior Counsel, submits that in view of this order he be permitted to approach the Monitoring Committee, without prejudice to his rights and contentions, as the Petitioner had, in fact, sought permission to carry out repair, renovation and reconstruction, which had been granted on 21st December, 2018. He submits that the action of the NRDMC, in sealing and demolishing the suit property after granting permission is not tenable in law.
4. This Court has perused the order passed by the Monitoring Committee dated 17th September, 2019, wherein the Monitoring Committee has called for Mr. Chaman Lal, Assistant Engineer, Karol Bagh Zone to appear before the Monitoring Committee and for the DC/Karol Bagh Zone to file a status report in respect of the suit property on 22nd November, 2019. It is clear that the Monitoring Committee is seized with the matter.
5. The Petitioner is accordingly permitted to approach the Monitoring Committee in respect of the demolition notice which is stated to have been issued by the NrDMC and to appraise the Monitoring Committee of the facts

which are averred in the present petition. Appropriate relief shall be sought before the Monitoring Committee.

6. Ld. counsel for the NRDMC states that further demolition of the suit property is not scheduled till Monday i.e., 14th October, 2019. Parties to appear before the Monitoring Committee on 15th October, 2019.

7. With the above observations, the petition and all pending applications are disposed of.

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

PRATHIBA M. SINGH
JUDGE

OCTOBER 09, 2019

Rahul

