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

+ W.P.(C) No. 12006/2016 & CM No. 47398/2016

MOHD ZAKI Petitioner

Through: Mr. Mohd. Furqan, Adv.

versus

THE COMMISSIONER NORTH MUNICIPAL
CORPORATION AND ANR

..... Respondents

Through: Mr. Mukesh Gupta, Standing Counsel
with Ms. Shashi Gupta, Adv. for
North-DMC

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **11.02.2019**

The petitioner's grievance is in relation to alleged unauthorized construction in property bearing No. 817-819 situate in Ward No. 9, Chhatta Sheikh Mangloo, Jama Masjid, Delhi.

In compliance of last order dated 12.12.2018, Mr. Mukesh Gupta, learned Standing Counsel for the North-DMC has placed the latest status report dated 13.12.2018 on record.

In status report dated 13.12.2018 it is stated that the subject property was booked for unauthorized construction by respondent No.1/ North-DMC in 2016 ; show cause notice dated 06.01.2016 was issued to the owner/ builder in that behalf ; and thereafter demolition order dated 12.01.2016 was also passed. Status report states that consequent upon issuance of demolition order, demolition action was taken against the subject property on

22.01.2016 making the offending portions of the subject property unusable.

Thereafter unauthorized construction was noticed again in the subject property which was therefore again booked ; show cause notice dated 29.03.2017 was issued; demolition order dated 06.04.2017 was passed ; and demolition action was taken again on 20.05.2017.

Mr. Gupta, learned counsel for the respondent No.1/North-DMC informs the court that in respect of the demolition order passed, two statutory appeals bearing Appeal Nos. 169/2018 and 170/2018 titled *Humera Saeed vs. North-DMC* and *Afroz Begum vs. North-DMC* respectively came to be filed before the Appellate Tribunal MCD, which Tribunal *vide* order dated 09.08.2018 set-aside the said demolition orders and remanded the matter back to respondent No.1/North-DMC for fresh decision.

A perusal of order dated 09.08.2018 made by the ATMCD shows that demolition orders were set-aside principally on the ground that at the time of pasting the show cause notices on the subject property, the officials of respondent No.1/SDMC did not take photographs nor cited any independent witness to prove service of the show cause notices on the affected parties by pasting.

Pursuant to the remand orders of the ATMCD as aforesaid, respondent No.1/ North-DMC states, remand proceedings were conducted; and the current position, as per instructions received by counsel in court, is that a fresh demolition order has been passed in respect of the subject property. Learned counsel for respondent No.1/North-DMC states that demolition action in accordance with the latest demolition order will be taken in due course, in accordance with law.

Although the petitioner, who is neither owner nor builder of the subject property was not party to the proceedings before the ATMCD, it is evident that action against unauthorized construction complained of by the petitioner is being taken.

In this view of the matter, I am of the opinion that there is no justification in keeping this petition pending. The writ petition is accordingly disposed of.

Pending applications, if any, also stand disposed of.

The petitioner shall however be at liberty, if the need so arises, to approach the Special Task Force constituted by the Ministry of Housing & Urban Affairs of the Government of India *vide* Office Memorandums dated 25.04.2018 and 23.05.2018 under directions of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors.***

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 11, 2019

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