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

Date of decision: 23rd October, 2019

+ W.P.(C) 7552/2017

ALOK KUMAR GUPTA

..... Petitioner

Through: None

versus

SOUTH DELHI MUNICIPAL
CORPORATION & ORS

..... Respondents

Through: Ms. Mini Pushkarna, Standing
Counsel with Ms. Khushboo
Nahar, Ms. Shina Pandey and Ms.
Swagata Bhuyan, Advs. for
respondent no. 1

Mr. Gautam Narayan, ASC with
Ms. Shivani Vij, Adv. for GNCTD
Ms. Rhea Verma, Adv. for DDA
Mr. Rajat Sehgal, Adv. for
respondent no. 6

Mr. Ikrant Sharma and Ms. Divya
Upadhyay, Advs. for respondent
no. 7

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

23.10.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

1. When the matter is called out, nobody appears for the petitioner.
Having heard counsel for the respondents and looking to the prayers in
this writ petition, which reads as under:-

“It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to issue a writ, order or direction in the nature of mandamus or any other nature or order, thereby directing the Respondents to:

I. Pass an order directing the respondents to inspect the area of Narmada Apartment in Alaknanda under PS CR Park and ensure that appropriate action should be taken against the illegal constructions being done and those already constructed including that at Flat No. 372 and 368 who have raised three floors illegally.

II. Pass an order directing the respondents to effectively act upon the complaint made by the petitioner to the respondents annexed herewith as ANNEXURE PI & P2.

III. Pass an order directing the respondents to keep a check on illegal and unauthorized construction in the Narmada Apartments, Alaknanda and demolish/remove all existing illegal constructions in the said area.

IV. Pass an order directing the respondents to develop an effective and coordinated web/Mobile application for the issues of illegal and unauthorized construction in the city of Delhi with the help of respondent No. 5 NIC.

V. Pass an order and Call for the records/status report from the respondent No. 1-5 regarding

the acts of omissions and commissions and the action taken by the Respondents. 1 and 2 and allow the present Petition and issue appropriate writ/order/direction specially in the nature of writ of Mandamus thereby directing the Respondents 1-5 to take appropriate legal action against the illegal and unauthorized construction of structure in respect of property bearing Flat No.372 & 368 Narmada Apartments, Alaknanda, New Delhi-110019.

VI. Pass appropriate writ, order, or direction directing the Respondents 1-5 to not to undertake any further or future construction in the said property without the sanction plan and without all permission/approval required in this regard by the concerned authorities including that of Respondent No. 1.

VII. Pass any other relief which this Hon'ble Court may deem fit and proper also be granted in favour of the Petitioners and against the Respondents."

2. Having heard counsel for the respondents and looking to the status report filed by the respondent no. 1 dated 23rd October, 2017, especially paragraphs 3 and 4 of the said report, it appears that actions have already been initiated by the respondent no. 1 in accordance with law.

3. For the ready reference, paragraphs 3 and 4 of the status report dated 23rd October, 2017 filed by the respondent no. 1 reads as under:-

“Flat No. 368, Narmada Apartments, Alaknanda, New Delhi.

1. That the aforesaid property was booked for unauthorized construction u/s 343/344 of DMC Act, vide file No. 289/B/UC/EE(B)-I/CNZ/17 dated 04.05.2017, and as mandated a show cause notice was issued on 04.05.2017 itself wherein the owner was directed to show cause with respect to the deviations made against the Standard Plan of DDA at first floor. Copy of show cause notice dated 04.05.2017 is annexed hereto as ANNEXURE SD-1. Upon following the due process, thereafter, demolition order was passed on 17/05/2017, copy annexed as ANNEXURE SD-2. and requisite demolition action was taken on various dates i.e. 28.08.2017, 21.09.2017, 06.10.2017 and 09.10.2017 as per details given herein below:-

<i>S. No.</i>	<i>Date of Action</i>	<i>Action Taken</i>
<i>1</i>	<i>28/08/2017</i>	<i>During the course of action demolished one small room at First floor rear side.</i>
<i>2</i>	<i>21/09/2017</i>	<i>During the demolition action, partly</i>

		<i>demolition was taken on balcony at First floor rear side.</i>
3	06/10/2017 & 09/10/2017	<i>During the course of action the extended portion of the Balcony and chajja and one toilet at Ist floor was demolished in the front portion of the flat.</i>

*The photographs taken during the aforesaid demolition actions are annexed herewith as **ANNEXURE SD-3 (COLLY)**.*

*ii. That the Building Department, South DMC also wrote a letter dated 17.05.2017 to the SHO, Police Station, CR Park to ensure that activity of unauthorized construction going on in the flat in question be stopped by the police immediately. Copy of letter dated 17.05.2017 is annexed hereto as **ANNEXURE SD-4**.*

iii. That besides this sealing action u/s 345-A of DMC Act, has also been initiated against the said

property and accordingly further action will be taken in due course of time as per law.

4. Flat No. 372. Narmada Apartments. Alaknanda, New Delhi

*(i) That the unauthorized construction in the said property was booked u/s 343/344 of DMC Act, vide file No.285/UC/B-I/SZ/17 dated 23/08/2017 and as mandated the necessary Show cause notice was issued on the same day i.e. 23.08.2017 in which it was clearly brought forth that there was deviation/excess coverage against Standard Plan of DDA and second floor and third floor (duplex) in the shape of room, covered verandha, balcony etc. Copy of show cause notice dated 23.08.2017 is annexed hereto as **ANNEXURE SD-5.***

*(ii) That upon following the due process in this regard the necessary demolition order has also been passed vide dated 08/09/2017, the copy of the same is annexed herewith as **ANNEXURE SD-6.***

*(iii) That further a letter dated 05.09.2017 was also written by the Building Department, South Zone to SHO, Police Station, OR Park to get the unauthorized construction in the said flat stopped immediately. Copy of letter dated 05.09,2017 written to SHO, PS, OR I Park in this regard is annexed hereto as **ANNEXURE SD-7.***

(iv) That pursuant to demolition order the department has also carried out the demolition action was taken on 06.10.2017 and 09.10.2017 as per details below:-

<i>S.No.</i>	<i>Date of Action</i>	<i>Action Taken</i>
<i>1</i>	<i>06/10/2017</i>	<i>During the course of action the extended portion of the balcony of second floor was demolished in the front portion of the flat</i>
<i>2</i>	<i>09/10/2017</i>	<i>During the course of action the extended portion of the balcony of Second and third floor was demolished in front portion of the flat.</i>

*The photographs taken during the aforesaid demolition actions are annexed **ANNEXURE SD-3 COLLY.***

(v) That moreover, a letter dated 11.10.2017 was also written to the SHO, Police Station, CR Park with the request to keep watch and ward over flat Nos. 368 and 372 so that further construction / reconstruction of demolished portion is not done in any manner in the said flats. Copy of letter dated 11.10.2017 is annexed hereto as ANNEXURE SD-8.

(vi) That besides this sealing action u/s 345-A of DMC Act, has also been initiated against the said property and accordingly further action will be taken in due course of time as per law.”

4. Thus, in the property in question, the aforesaid actions have already been initiated by the respondent no. 1. Therefore, we see no reason to further monitor this case any more and hence, this writ petition is disposed of accordingly.

CHIEF JUSTICE

C.HARI SHANKAR, J

OCTOBER 23, 2019

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