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

+ W.P.(C) 11649/2019

MAHIMA TANWAR

..... Petitioner

Through: Mr. Narender Sharma, Advocate.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

....Respondents

Through: Ms. Namrata Mukim, Standing Counsel for
R-1 alongwith Ms. Garima Jindal,
Advocate.
Mr. Rohit Kumar Modi, Advocate for
R-4/applicant.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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28.07.2020

1. The hearing was conducted through video conferencing.

CM APPL. 16608/2020 (by R-4 seeking exemption from filing attested affidavit)

2. Exemption allowed, subject to the condition that the applicant will file the duly sworn/attested affidavit within 72 hours from the date of resumption of the regular functioning of this Court.

3. The application stands disposed-off.

CM APPL. 16607/2020 (by R-4 for early hearing and stay)

4. Issue notice. The learned counsel named above accept notice on behalf of the non-applicants. Copy of the application be supplied to the learned counsels for the petitioner/non-applicant. At joint request the application is taken up for disposal.

5. This application seeks preponement of the case and grant of stay against further demolition of the property apropos which the Corporation had issued notices for unauthorized construction and part demolition was carried out on 31.12.2019. It is the applicant's case that the impugned order dated 26.10.2019 is erroneous both on facts and in law; that he ought to be heard before any further demolition is carried out otherwise, he will suffer irreparable prejudice. His interim application before the learned Appellate Tribunal MCD is yet to be heard. His appeal was listed on 26.02.2020 and 19.03.2020 before the Tribunal. However, since the Corporation had not filed its reply before the learned Tribunal the appeal/his interim application could not proceed. The learned Standing Counsel for the Corporation submits that the reply could not be filed partly because of one lapse of date and thereafter the nationwide pandemic lockdown had virtually suspended all regular activity. Furthermore, the Tribunal itself has been non-functional for some time.
6. However, the Court is informed that the learned Tribunal has now resumed hearing of urgent matters. In view of the above, the applicant seeks to pursue his remedies before the said statutory forum.
7. It will be open to the applicant to request the learned Tribunal to take up his application for interim relief on an urgent basis, as the next scheduled date for demolition is 6th August 2020.
8. In the circumstances, till the applicant's application for interim relief is taken up for hearing, the demolition action planned for 6th August 2020, will not be executed. The applicant undertakes to at least move the application before the learned ATMCD for interim relief by this

week itself, failing which the Corporation will be free to take measures as per law.

9. Since the issue is being examined before the statutory forum, this writ petition would no longer be maintainable. The petitioner shall be kept informed by the Corporation, about the progress of the case before the learned ATMCD.
10. The learned counsel for the applicant/owner/occupier submits that the applicant is not carrying out any construction activity.
11. In view of the above, the petition stands disposed-off in terms of the above.
12. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J

JULY 28, 2020

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