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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P. (C) 4052/2020**

SUSHIL TULI

.....Petitioner

Through: Mr Sahil Munjal, Advocate.

versus

**NORTH DELHI MUNICIPAL
CORPORATION & ORS**

..... Respondents

Through: Mr Siddhant Nath, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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09.07.2020

1. The hearing was conducted through video conferencing.

CM APPLN. 14517/2020 (Exemption)

2. Allowed, subject to all just exceptions. The application stands disposed off.

CM APPLN. 14516/2020 (Court fees)

3. Exemption allowed, subject to the condition that the Petitioner will file the duly sworn/attested affidavit and the requisite Court fee within 72 hours from the date of resumption of the regular functioning of this Court.

4. The application stands disposed-off.

W.P.(C) 4052/2020

5. Issue notice.
6. The learned counsel as mentioned above accepts notice on behalf of respondent no. 1- North Delhi Municipal Corporation.
7. At joint request of the learned counsel for the parties, the petition is taken up for disposal.

8. The petitioner is aggrieved by the illegal construction being carried out on the roof of second floor/the terrace of the property bearing number B2/8, Sector-11, Rohini, New Delhi-110085. The petitioner resides on the first floor of the said property. He is a diabetic patient and has to undergo dialysis every second day. The said construction activity is causing him immense discomfort. His repeated requests to the respondent- North Delhi Municipal Corporation have yielded no results. According to the petitioner, the unauthorized construction has not yet been put to use.
9. The learned counsel for the respondent-Corporation states, upon instructions, that the aforesaid unauthorized construction had been booked and demolition had been carried out on 21.02.2020. However, the photograph at page 41 of the petition, shows that the construction activity is being carried out even in the demolished portion where the RCC pillars and the roof of the newly built structure had been cut/damaged. Surely, this subsequent could not have escaped the notice of the JE concerned of the Corporation. In any case they should have responded to the petitioner's complaints/intimation resumption of illegal construction, after the February, 2020 demolition action.
10. The Corporation states that it had intimated and requested the local police to ensure that no further construction is carried out at the aforesaid site. However, the said intimation is not the end of the Corporation's statutory duties. Should the police not be vigilant or be preoccupied with its other fundamental duties of maintenance of law and order, the responsibility of the Corporation would continue. Surely, the Corporation has neither shifted nor abdicated to the local

police, its primary duty of stopping unauthorised construction. Its lack of vigil is stark, because the petitioner had repeatedly intimated/complained to the Corporation by letters dated 25.02.2020 and 04.03.2020 and to the local police on 30.05.2020 and 03.06.2020 about the resumption of the unauthorised construction, after the February demolition. However, for some odd reason, the said letters found no audience and neither of the authorities responded to or acted on them.

11. In view of the above, let the Corporation's Deputy Commissioner concerned: i) look into the matter specifically regarding the evident lack of action, ii) fix responsibility on the errant official(s) as to how the unauthorized construction has now reached completion and finishing stages, without notices have been issued or follow up action by the Corporation apropos the subsequent illegal/unauthorized construction, iii) initiate action against the identified official(s) for failure of duty, as may be *prima facie* discerned and iv) file an affidavit explaining the above within a two weeks from today, with intimation to the petitioner.

12. The petition stands disposed-off with the above directions.

13. List for directions after three weeks.

14. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

JULY 09, 2020/rd