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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 14th October, 2020

+ **C.R.P. 58/2020 & CM APPLs. 21751-52/2020**

RAJESH GUPTA & ANR. Petitioner

Through: Mr. Kunal Kalra, Advocate. (M:
9871028645)

versus

**SDMC, THROUGH: ITS COMMISSIONER &
ORS.** Respondents

Through: Ms. Aakanksha Kaul, Standing
Counsel with Mr. Manek Singh,
Advocate for SDMC.

Mr. Deepak Khosla with Mr.
Humayun Khan, Advocates-R-2 (M:
9811218591).

Mr. Jamal Akhtar, Panel Counsel for
GNCTD/R-4.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been held through video conferencing.
2. The present revision petition was filed for a limited purpose i.e. non-grant of interim order by the Trial Court in the suit filed by the Petitioner. The grievance of the Petitioners was that the Respondent No.2 was carrying out unauthorised construction on the Second Floor of the suit property i.e. Property No. 2/35, Ansari Road, Daryaganj, New Delhi, without obtaining proper sanction. The Petitioners had relied upon reports of the South Delhi Municipal Corporation (*hereinafter*, 'SDMC') and the local SHO, which were filed before the Trial Court, to submit that the SDMC and the SHO were clear that there was illegal construction going on in the property.

However, despite these reports having been filed, the Trial Court had not passed any injunction order restraining the unauthorized construction, and the Petitioners, who are the residents of the Ground Floor of the suit property were being severely inconvenienced and put to enormous harassment. Hence the present petition was filed.

3. The matter was first listed before this Court on 7th September, 2020, on which date Ms. Aakanksha Kaul, Id. counsel appearing for the SDMC had confirmed to the Court that a notice had already been issued under Sections 343 and 344 of the Delhi Municipal Corporation Act, 1957 against the unauthorized construction.

4. Accordingly, this Court had directed on 7th September 2020 that no further illegal unauthorized construction shall be carried out in the suit property. SDMC and the local SHO in Daryaganj were to ensure compliance of the same. Further, SDMC was also directed to carry out action in accordance with law and also file a status report in respect of the suit property, giving details as to the extent of unauthorized/illegal construction.

5. This Court had also appointed a Local Commissioner (*hereinafter, 'LC'*) to ascertain the exact status of the construction, which had been carried out in the suit property. Pursuant to the said order the LC has executed the commission and has placed the LC report on record. The fee of the Commissioner already stands paid. As per the LC's report, the basement of the said property was being used for storage of books and construction was being carried out on the second and third floors of the property.

6. Insofar as SDMC is concerned, Ms. Kaul, Id. counsel submits that as per the Status Report which has been filed by the Corporation, the Corporation had decided to go-ahead with the demolition orders which were

passed against the property and the demolition has already taken place on 13th October, 2020 on the second and third floor of the property. Insofar as the Basement of the suit property is concerned, the same has been sealed. As per the Corporation's stand, the basement is being misused.

7. Accordingly, since both the compliances have been made, in terms of the last order and the SDMC has already demolished the unauthorized portion, no further orders are called for in the present revision petition.

8. However, it is directed that officials of SDMC along with the local police shall ensure that no further unauthorised or illegal construction is raised in respect of the suit property. Insofar as sealing of the basement is concerned, the remedies of the Petitioners in respect thereof are left open. If the Respondent No.2 wishes to carry out any construction in the suit property, the same shall be availed of in accordance with law. Ld. counsels of the parties are permitted to obtain copies of the LC report and the Status Report filed by SDMC.

9. With these observations, the present petition is disposed of. All pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

OCTOBER 14, 2020

dj/A