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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6095/2020 & CM APPL. 21900/2020 (interim relief)

MUKESH AGGARWAL

.....Petitioner

Through: Mr S.D. Ansari with Ms Sana Ansari,
Advocates.

versus

NORTH DELHI MUNICIPAL
CORPORATION & ORS.

..... Respondents

Through: Mr Ajjay Arorra, Standing Counsel
for R-1/North DMC.
Mr Rizwan, Advocate for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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08.09.2020

The hearing was conducted through video conferencing.

1. Issue notice.
2. Notice is accepted by the learned counsels named-above for the respondents.
3. At the request of the learned counsel for the parties, the petition is taken up for disposal.
4. The petitioner in this petition seeks the following relief:

“...for issuance of a writ/order/direction in the nature of a writ of mandamus thereby directing the respondents no. 1 to 3 to take legal action of demolition of illegal and unauthorized construction being raised by the respondent No. 4 & 5 in property bearing No. 3550 which is situated just over and

above Shops No. 1346 to 1350 and 3543 to 3553, Qutub Road, Pan Mandi, Sadar Bazar, Delhi and further directing the respondent No 1 to 3 to ensure no further construction be raised by respondent No. 4 & 5 in the property in question;

5. The petitioner is aggrieved by the inaction on the part of the Corporation apropos construction of couple of floors over his Shop Nos. 1346 to 1350 and 3543 to 3553, Qutub Road, Pan Mandi, Sadar Bazar, Delhi.
6. The learned Standing Counsel for the Corporation submits that some important information has not been disclosed to this court i.e. an identical relief had been sought by the same petitioner sometime earlier by way of writ petition, which was disposed-off, inter alia, directing the petitioner to appear before the Nodal Steering Committee ('NSC') on 06.03.2009. Perhaps there was a lapse in this regard on the part of the petitioner. The construction remained as it is.
7. The learned counsel for the petitioner submits that no other writ petition has been filed by the petitioner. She further submits that the circumstances changed since the last ten years and couple of more shops have been added over the shops of the petitioner. Therefore a fresh cause of action has arisen. She relies on the photographs of the illegal construction are as under:



8. Be that as it may, what is to be determined is whether the construction is legal or illegal. This determination can only be made by the Corporation. There is nothing on record to show, either by the Corporation or by the NSC as to whether the construction is authorized or unauthorized. It is for the Corporation to determine the same and the Corporation's assessment in this regard, will not be dependent upon the appearance of the petitioner before any Committee.
9. Accordingly, it is directed that this writ petition be treated as representation of the petitioner by the Corporation and appropriate view shall be taken by the Corporation apropos the alleged unauthorized construction. If the Corporation is of the view that the construction is illegal, the decision of the Corporation shall be communicated to the petitioner within four weeks from today.
10. The petition, along with pending application, stands disposed-off in the

above terms.

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

NAJMI WAZIRI, J

SEPTEMBER 08, 2020/*rd*