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

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**W.P.(C) 6251/2020**

**SUNIL RAWAT & ORS.**

.....Petitioners

Through: Mr Bharat Sareen, Advocate.

versus

**SOUTH DELHI MUNICIPAL CORPORATION** ..... Respondent

Through: Ms Puja Kalra, Standing Counsel for  
South DMC.

**CORAM:**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

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**11.09.2020**

The hearing was conducted through video conferencing.

1. Issue notice.
2. Notice is accepted by Ms Puja Kalra, the learned Standing Counsel for the respondent South Delhi Municipal Corporation ('SDMC').
3. At the request of the learned counsels for the parties, the petition is taken up for disposal.
4. This petition seeks the following reliefs:

*"...(a) Issue an appropriate writ, order, declaration directing the Respondent to demolish the illegal construction raised by the builder at Property No.95, 5<sup>th</sup> Floor, Tilak Khand, Giri Nagar, Kalkaji, New Delhi-110019 under sections 343/344 of DMC Act, 1957 and other relevant provisions of the Act.*

*(b) issue an appropriate writ/order/declaration thereby by directing the Respondent to break open the locks put by the builder on the entry gate of the fifth floor of property no.95, Tilak Khand with the aid of the local police station so as to enter upon the said property and demolish the said illegal constructions raised by the builder at above mentioned property and submit its detailed report with pictures and video*

*recording regarding the action taken by the Respondent against the said illegal construction...”*

5. The petitioners are aggrieved by the inaction of the Corporation apropos the construction of the fifth floor on their building by the private respondent. The petitioners’ representations to the Corporation have elicited no response. It is argued that since 5<sup>th</sup> floor is not permitted on the said plot size, the said construction is *ex facie* illegal and ought to be demolished right away. The photographs of the undergoing construction annexed with the petition are at pages 31 to 34 (Annexure-D) as under:





6. The petitioners further state that large parts of their apartments have been damaged extensively on account of the aforesaid construction. The photographs of the damage are annexed with the petition at pages 41 and 42 (Annexure-H) as under:





7. The photographs show that the walls have developed cracks and there has been extensive seepage. The electrical lines have too got damaged. This obviously will entail unnecessary expenditure for the petitioners.
8. In the circumstances, the Deputy Commissioner of the Zone concerned shall ensure that appropriate action is initiated against the officials, if they are found wanting in their actions apropos the alleged unauthorized construction.
9. If the damaged to the petitioners' property is found linked to the aforesaid unauthorized construction, the same shall be got duly repaired by the offending builder/party, within fortnight from today, under the watch of the Corporation.
10. Ms Kalra, the learned Standing Counsel for the Corporation submits that the 'work-stop notice' has been issued by the Corporation and that it shall be ensured that the *status quo* as of today is be maintained, at least as per the photographs attached alongwith the petition. Furthermore, the SHO concerned shall assist the Corporation upon request. She further states that show-cause notice has been issued and further action as per law shall be followed up; a final

decision will be taken within four weeks from today, after hearing the parties. The petitioner shall be kept informed of all developments in the matter.

11. The petition is 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 email.

**NAJMI WAZIRI, J.**

**SEPTEMBER 11, 2020/*rd***