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

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Judgment delivered on: 20.12.2021

+ W.P.(C) 14698/2021 & CM APPL. 46281/2021

RAJBIR

..... Petitioner

versus

NORTH DELHI MUNICIPAL
CORPORATION & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Avadh Kaushik, Advocate (through VC).

For the Respondent:

Mr. Anand Prakash, Standing Counsel, North
DMC with Ms. Varsha Arya, Advocate (through
VC).

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns demolition order dated 16.12.2021 whereby demolition action is proposed against the alleged illegal construction in the subject property.

2. Learned counsel for the petitioner submits that the petitioner duly replied to the show cause notice dated 10.12.2021 on 16.12.2021, however, the impugned order which is passed on 16.12.2021 records that no reply has been received till date.

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to HMJ Sanjeev Sachdeva.

W.P(C) 14698/2021

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3. Learned counsel submits that the show cause notice was received on 15.12.2021 and the reply was filed the very next day, however, the same has not been considered.

4. Learned counsel for the petitioner has shared over the email of the Court Master copy of the registered envelope through which the show cause notice was sent as well as its tracking report.

5. The postal receipt passed on the envelope shows that the notice was dispatched on 13.12.2021 at 12.48 PM. The tracking report shows that the notice was delivered on 15.12.2021 at 17.59. Reply to the show cause notice was delivered by hand on 16.12.2021 and bears the receipt of the respondent of 16.12.2021.

6. The show cause notice had stated that reply be given within three days from the date of the service of the show cause. Reply was duly filed within a period of three days, however, the impugned demolition order was passed without taking into consideration the reply.

7. Learned counsel for the respondent submits that the show cause notice and action the is proposed in terms of the directions issued by this Court in W.P(C) 12888/2021 titled '*Kamla Mohindru vs. North Delhi Municipal Corporation & Ors*'.

8. The directions of this Court in *Kamla Mohindru (Supra)* is to

take action in accordance with law which would entail that principles of natural justice have to be complied with.

9. Since the show cause notice was delivered to the petitioner only on 15.12.2021 and the reply was filed the very next day, it was obligatory on the Corporation to consider the reply prior to passing the demolition order.

10. Accordingly, the demolition order dated 16.12.2021 is set aside. The matter is remitted to the Corporation to consider the reply given by the petitioner and after giving an opportunity of personal hearing pass a speaking orders in accordance with law. The decision be taken expeditiously.

11. Petition is allowed in the above terms.

SANJEEV SACHDEVA, J.

DECEMBER 20, 2021

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