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

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Judgment delivered on: 23.02.2022

+ W.P.(C) 1398/2021 & CM. APPL. 3983/2021

ANKIT DABAS

..... Petitioner

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Ms. Anusuya Salwan, Mr. Abhishek Pundir, Ms. Nikita Salwan, Mr. Bankim Garg and Mr. Chaitanya Bansal, Advocates.

For the Respondent: Mr. Anand Prakash, Standing Counsel, North DMC with Ms. Varsha Arya & Mr. Akhil Raj Advocates for North DMC

Mr. Vipul Pankaj Sanghi, Advocate for respondent No.2.

Mr. Pradeep Kumar Arya and Mr. Gaurav Chaudhry, Advocates for R-4.

Mr. Deepanshu Khatri, Advocate for the Society.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.



2. Petitioner seeks a direction to the respondent/Corporation to take action against the illegal unauthorized construction carried out by respondent No.4 in Flat No.4A, Sandeep Cooperative Group Housing Society, Plot No.35, Rohini, Sector-13, Delhi.

3. Status report has been filed by the Corporation stating that the unauthorized construction has been booked and a demolition order has been passed. However, demolition could not take place as there was non-availability of police force.

4. Learned counsel appearing for respondent No.4 submits that not only respondent No.4, but several other flat owners have also made similar additions/alterations in their flats.

5. Learned counsel for the respondent No.4 objects to the maintainability of the petition on the ground that the petitioner has adopted a '*pick and choose policy*'.

6. This is disputed by learned counsel for the petitioner, who submits that the property of the petitioner is right adjoining the property of respondent No.4 and petitioner is directly affected by the illegal construction raised.

7. Learned counsel for respondent No.4 submits that since others have also made similar additions, action cannot be taken against his property alone.



8. I am unable to accept the contention of learned counsel for respondent No.4 on the principle of negative equality. One who allegedly raises unauthorized construction cannot resist the action proposed by the Municipal Corporation solely on the ground of inaction of the Corporation qua other illegal and unauthorized constructions in the society.

9. Learned counsel appearing for respondent No.3/society submits that since several of the occupants of the society have made similar construction, an application for regularization has been filed by the Corporation and the same is pending.

10. Learned counsel appearing for the Corporation submits that he has no instructions with regard to pendency of any such application.

11. Be that as it may, since the status report of the Corporation states that the construction is unauthorized and illegal, demolition order has been passed and action in accordance with law is being taken, this petition is disposed of, binding the Corporation down to the statement made in the status report that appropriate action in accordance with law shall be taken.

12. However, it is clarified that that in case any regularization application has been filed by the society, the same be considered by the Corporation expeditiously, preferably within a period of six weeks



and subject to the outcome of the regularization application, further action be taken in accordance with law.

13. Further, direction is issued to respondent No.2, the concerned police officers to provide appropriate police force, if so requested by the Corporation in accordance with law.

14. Petition is disposed of in the above terms.

15. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through e-mail by the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 23, 2022
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