



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

**+W.P.(C) 6757/2022, CM APPL. 20500/2022, CM APPL. 20501/2022**

Date of Decision: 18/05/2022

**IN THE MATTER OF:**

PAPPU SHARMA

..... Petitioner

Through: Mr. Sujeet Kumar Mishra,  
Advocate.

Versus

NORTH DELHI MUNICIPAL CORPORATION (THROUGH ITS  
COMMISSIONER)

..... Respondent

Through: Mr. Ajjay Aroraa and Mr. Kapil  
Dutta, Advocates for North DMC.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT**

**MANOJ KUMAR OHRI, J. (ORAL)**

1. By way of the present petition filed under Article 226 of the Constitution of India, the petitioner has sought following reliefs:-

*"(i) Issue Writ(s) /order(s)/ direction(s) in the nature of Mandamus directing the Respondent authorities to keep in abeyance all the notices issued by it qua the property consisting of Ground Floor and First Floor with projections admeasuring 25 Sq. Yds. Situated at premises bearing No.143, Old Chandrawal, Civil Line, Delhi-110 054, and not to take any further action w.r.t. the said property in consonance of Section 3 of the NCT of Delhi Special Provisions Act; and/ or*

*(ii) Issue Order(s) Direction(s) Writ(s) in the nature of Certiorari calling for the record of the entire file bearing*



*no. 118/83-N/B-II/UC/CSPZ/2021, with respect to the property consisting of Ground Floor and First Floor with projections admeasuring 25 Sq. yds. Situated at premises bearing No.143, Old Chandrawal, Civil Line, Delhi-110 054 and after going through the same quash all the proceeding emanating thereof alongwith impugned order dated 03.11.2021; and/or*

*(iii) Issue order(s) Direction(s) Writ(s) in the nature of mandamus directing the respondent to allow the petitioner to carry/undertake necessary repair work w.r.t. property comprising of ground floor and first floor alongwith projection situated at premises no.143, area measuring 25 sq. yds., situated at Old Chandrawal, Civil Line, Delhi-110054 in order to make the premises habitable; and/or*

*(iv) Issue Writ(s) /order(s)/ direction(s) in the nature of Mandamus by way of order(s) /direction(s) of permanent injunction restraining the Respondent authorities not to disturbed the peaceful possession of the said property by the Petitioner by doing any act in derogation of The NCT of Delhi Special Provisions Act which may affect the peaceful possession and enjoyment of the said property”*

2. At the outset, Mr. Kapil Dutta, learned counsel for the respondent/North DMC, has taken preliminary objection to the maintainability of the present petition inasmuch as the petitioner had approached this Court earlier also by way of W.P. (C) 6012/2022 titled as Shrimati Vimmi Ghai & Ors. v. Shri Sandeep & Ors., wherein vide order dated 12.04.2022 the petitioner was granted liberty to approach the Appellate Tribunal, MCD qua prayer (b) made therein.

3. On the other hand, Mr. Sujeet Kumar Mishra, learned counsel for the petitioner, has referred to the advisory/notice dated 13.07.2021 issued by the respondent/North DMC vide which in view of the



deteriorated/dangerous/dilapidated condition of the property bearing No. 143, Old Chandrawal, Civil Lines, Delhi (hereinafter referred to as the 'subject property'), the petitioner was advised to take immediate corrective measures for strengthening the subject property by removing the dangerous portion. He submits that the petitioner had only carried out repairs in pursuance to the said notice however, the respondent has thereafter issued demolition order on 03.11.2021. It is submitted that such a course is not permissible under the law. Learned counsel has also placed reliance on the decisions passed by this Court in The Municipal Corporation of Delhi v. Hukam Chand Jain, LPA No. 49/1965 and Dinesh Kumar v. North Delhi Municipal Corporation & Ors., W.P. (C) 8651/2014.

4. *Per contra*, Mr. Kapil Dutta, learned counsel for the respondent has submitted that under the garb of strengthening the subject property in terms of the said advisory/notice dated 13.07.2021, the petitioner had razed the existing structure and thereafter, raised unauthorized construction pursuant to which demolition order was passed on 03.11.2021. It is also submitted that prayers sought in the present petition are identical to the prayers sought in the earlier W.P.(C) 6012/2022. Learned counsel further submitted that part demolition action has already been taken on 20.04.2022.

5. A perusal of the order dated 12.04.2022 passed in W.P.(C) 6012/2022 would show that the prayers made therein were noted as under :-

*"a) issuing a writ of mandamus directing Respondent Nos: 2 for implementing the Resolution dated 27th April, 1984 passed by then Municipal Corporation of Delhi and furthermore acquire the properties of the Petitioners and in*

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*alternate given them rehabilitation according to the resolution dated 27th April, 1984 on terms and conditions deemed fit and proper in the facts and circumstances of the case.*

*b) issuing a writ of prohibition restraining Respondent Nos. 1 and 4 from creating obstacles and hurdles in the right to life and liberty of the your petitioners by filing frivolous petitions against your Petitioners.*

*c) Any other relief deemed fit and proper may be allowed in favour of your Petitioners and against the Respondents on terms and conditions deemed fit and in the facts and circumstances of the case."*

6. In the aforesaid earlier petition, after making submissions, learned counsel for the petitioner sought leave to withdraw prayer (b) with liberty to approach the Appellate Tribunal, MCD and notice was issued restricted to prayer (a) only. *Ex facie*, the prayers made in the instant petition are nothing but a repeat of prayer (b) made in W.P. (C) 6102/2022. The reliance placed by the learned counsel for the petitioner on the decision passed by the Division Bench of this Court in The Municipal Corporation of Delhi (Supra) is misplaced as the said decision does not relate to availing of alternate remedy as provided under Section 347B of the Delhi Municipal Corporation Act, 1957. In view of the fact, that in the earlier petition, learned counsel for the petitioner had sought leave to withdraw prayer (b) made therein, no ground is made out to entertain the present petition seeking similar reliefs.



7. At this stage, learned counsel for the petitioner, on instructions, seeks leave to withdraw the present petition with liberty to approach the Appellate Tribunal, MCD for seeking appropriate relief.

8. Leave and liberty, as prayed for, is granted and the writ petition is dismissed as withdrawn.

9. In the meantime, in view of the statement made by the learned counsel for the petitioner, the respondent/North DMC shall not take any precipitate action with respect to the subject property for a period of one week from today in order to enable the petitioner to approach the Appellate Tribunal, MCD in accordance with law. Miscellaneous applications are disposed of as infructuous.

10. Needless to state, that this Court has not gone into the merits of the contentions raised by either of the parties and they are left open.

(MANOJ KUMAR OHRI)  
JUDGE

**MAY 18, 2022**

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