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

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Judgment delivered on: 24.01.2022

+ W.P.(C) 7025/2021 & CM APPL. 22196/2021, 39791/2021 &
42856/2021

HOSHIAR SINGH

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Rohit Sharma and Mr. Imran Ahmad, Advocates.

For the Respondents: Ms. Arunima Dwivedi, ASC for R-1/SDMC.

Mr. Abhinav Singh, Advocate for R-2.

Mr. Shekhar Gupta, Advocate for R-3.

Mr. Naresh Gupta and Mr. Shantanu Aggarwal, Advocates
for R-5.

Mr. Rajinder Singh and Mr. Ashish Rana, Advocates for R-
11,13 to 15.

Mr. Sujeet Beniwal, Advocate for R-12.

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 respondents to take action against alleged illegal, unauthorized construction being raised by respondent No.3 in property No.91-C, Gali No.4, Krishna Nagar, New Delhi.



3. Learned counsel appearing for respondent No.3 submits that respondent No.3 is owner of property No.101 and not 91-C and he has a sanction plan for raising construction on property No.101.

4. He further submits that by a subsequent order dated 10.12.2021, the sanction plan has been revoked and he has already filed an appeal before the Appellate Tribunal, MCD and by order dated 23.12.2021, the Appellate Tribunal, MCD has directed *status quo* to be maintained in respect of the said property.

5. He submits that no construction activity is being carried out in the subject property at the present time as the structure is already complete.

6. Learned counsel appearing for the petitioner submits that the contention of respondent that he is owner of property No.101 is incorrect as from the site plan it is quite clear that petitioner is physically in occupation of property No.91-C and the construction was being raised in property No.91-C.

7. Learned counsel appearing for respondent Nos.11, 13 to 15 submits that they are co-owners of property No.91-C and respondent No.3 is raising construction on property No.91-C under the garb of claiming it to be property No.101.

8. This is disputed by learned counsel appearing for respondent No.3.

9. Since the sole relief in the subject petition was with regard to a direction to the respondent Corporation to take action against alleged



illegal, unauthorised construction and the respondent Corporation has already revoked the sanction plan and is taking further action in accordance with law. Further, it may be noticed that respondent No.3 has already availed of its remedy by way of an appeal before the Appellate Tribunal, MCD.

10. Accordingly this petition is disposed of with a direction to the Corporation to take further action in accordance with law subject to the outcome of the appeal.

11. It is directed that in case any further action is called for against the property of respondent No.3 in terms of the order of the MCD Appellate Tribunal, respondent Corporation shall expeditiously take the same.

12. It is clarified that this Court has neither considered nor commented upon the merits of the contention of the petitioner or respondent No.3 with regard to the identity of the subject property.

13. Further, petitioner as also respondent Nos.11, 13 to 15 are given liberty to approach the Appellate Tribunal, MCD for the purposes of impleadment. On such an application being filed, the Appellate Tribunal, MCD shall consider the same in accordance with law without being influenced by anything stated herein.

14. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

JANUARY 24, 2022/rk

SANJEEV SACHDEVA, J.