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

% Judgment delivered on: 27th January, 2022

+ W.P.(C) 8411/2021 & CM. APPL. 25989/2021

SH. SANDEEP KUMAR Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS. Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Aly Mirza, Advocate.

For the Respondent: Mr. Siddhant Nath, Standing Counsel for SDMC.
Mr. Sanjay Dewan, Advocate for Mr. Raman Rahani (R-4)
Ms. Jyoti Taneja and Mr. Vidur Kamra, Advocates for GNCTD
along with SI Rajender, P.S. Hazrat Nizamuddin

and

+ W.P.(C) 10295/2021

RAMAN RAHANI Petitioner

versus

SDMC & ANR. Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Sanjay Dewan, Advocate

For the Respondent: Mr. Gaganmeet Singh Sachdeva, Additional Standing Counsel
for SDMC.
Mr. Aly Mirza, Advocate for R-2.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

**SANJEEV SACHDEVA, J**

1. The hearing was conducted through video conferencing.
2. Learned counsel for respondent/SDMC in W.P. (C) 10295/2021 has shared status report over the e-mail of the Court Master. The same is taken on record.
3. Petitioner in W.P. (C) 8411/2021 seeks a Mandamus to respondent No.1/South Delhi Municipal Corporation to demolish the alleged illegal unauthorized construction raised by respondent No.4 on the third floor of property number 6/33A, opposite Kargil Park, Jangpura B, New Delhi.
4. W.P. (C) 10295/2021 is a petition filed by respondent No.4 in W.P. (C) 8411/2021 seeking a Mandamus to be issued to respondent No.1/South Delhi Municipal Corporation to take action alleged illegal unauthorized construction raised on the first and second floor of the subject property by the petitioner in W.P. (C) 8411/2021.
5. Respective status reports have been filed by the Corporation in both the petitions.
6. In W.P. (C) 8411/2021, status report records that the ground, first and second floor of the subject property was found to be old constructed and residentially occupied. However, fresh unauthorized construction of a room having tin shed at third floor was found and action has been initiated and a demolition order qua the same has been passed on 27.08.2021.



7. The first status report filed on 27.09.2021 in W.P. (C) 10295/2021 states that the ground, first and second floor are old and occupied. However, as excess coverage/deviation was found at the ground, first and second floor, action has been initiated and show cause notice has been issued on 22.09.2021 to the owners/occupants of ground, first and second floor.

8. A second status report has been filed in W.P. (C) 10295/2021, stating that the deviations on the first and second floor were found to be protected under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2020. However, a demolition order qua the ground floor of the subject property has been passed.

9. Learned counsel appearing for (Mr. Raman Rahani) petitioner in W.P. (C) 10295/2021, who is the owner/occupier of ground floor and third floor of the subject property, submits that the orders passed by the Corporation are illegal and motivated. He reserves the right to challenge the same in accordance with law.

10. Since the respondent/Corporation has filed status reports with respect to the respective properties and stated that they shall be taking action in accordance with law, these petitions are disposed of, directing the respondent/Corporation to take action in accordance with the status reports filed before the Court and in accordance with law.



11. It is, however, clarified that this would be without prejudice to the right of the owners/occupiers to defend proceedings in accordance with law by initiating appropriate proceedings before the Appellate Tribunal, MCD.

12. It is directed that in case any proceedings are initiated by the owners/occupiers, the same would be dealt with by the Appellate Tribunal, MCD without being influenced by anything stated in this order.

13. It is further directed that for a period of two weeks from today, no coercive action shall be taken so that the owners/occupiers can avail of the remedy of appeal.

14. It is clarified that the protection shall lapse on the expiry of the period of two weeks or listing of the appeals whichever is earlier and continuance of interim protection thereafter would be subject to orders to be passed by the Appellate Tribunal.

15. Petitions are accordingly disposed of in the above terms. All rights and contentions of the parties are reserved.

16. 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

JANUARY 27, 2022
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