



+ **W.P. (C) 12606/2021**

Date of Decision: 06.04.2022

IN THE MATTER OF:

VIRENDER BENIWAL

..... Petitioner

Through: Mr. Thakur Sumit, Advocate

Versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through: Mr. Siddhant Nath, ASC for Respondent Nos. 1 and 2.

Mr. Santosh Kumar Tripathi, Standing Counsel (Civil), GNCTD, alongwith Mr. Arun Panwar,

Mr. Siddharth Krishna Dwivedi & Mr. Aditya

S. Jadhav, Advocates for Respondent No. 4

alongwith SI Hariom, P.S. Rani Bagh

None for Respondent No. 3

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. Present none for respondent No.3.
2. By way of the present petition filed under Article 226 of the Constitution of India, the petitioner has sought the following reliefs:-

“a) call for the complete relevant records from Respondent Nos.1 and 2 pertaining to the Complaints made by Petitioner regarding the illegal and unauthorised constructions being carried out by the Respondent No.2 at property bearing Khasra No.412, Shree Sukhlal Market, Pitampura Village, Delhi-110034 including the action taken report and records of Unauthorised Construction File No.186 & 187 dated 22.05.2015;



- b) *direct the Respondent Nos.1 and 2 to demolish and remove the illegal and unauthorised constructions being carried out by the Respondent No.3 at property bearing Khasra No.412, Shree Sukhlal Market, Pitampura Village, Delhi-110034 and take action in respect thereof as per law;*
- c) *direct the Respondent No.4 to provide necessary Police assistance and protection to the Respondent No.1 and 2 for carrying out demolition of illegal and unauthorized constructions being carried out by the Respondent No.3 at property bearing Khasra No.412, Shree Sukhlal Market, Pitampura Village, Delhi-110034;*
- d) *direct the Respondent No.3 not to undertake and carry out any illegal and unauthorized construction at property bearing Khasra No.412, Shree Sukhlal Market, Pitampura Village, Delhi-110034 in future;*
- e) *award the costs of the present proceedings in favour of the Petitioner and against the Respondents; and*
- f) *pass such other relief(s) and further relief(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in favour of the Petitioner and against the Respondents."*

3. Learned counsel for the petitioner submits that the petitioner is aggrieved by the stated unauthorized construction, having interest in the said property. In this regard, it is submitted stated that a Civil Suit bearing No. 832/2019 is also pending before the learned Additional District Judge, Rohini, Delhi. Learned counsel has further referred to earlier complaints written to the Police, to Respondent/North DMC as well as to Respondent No. 4, the copies of which have been placed on record.

4. Learned ASC for respondent Nos. 1 & 2 has handed over the original signed copy of the counter-affidavit, which is taken on record.

5. Learned ASC for respondent Nos. 1 & 2 submits that initially the unauthorized construction at the subject property was booked in the year



2015 vide file no. 186/C-63/B-11/UC/CLZ/2015 dated 23.05.2015, whereafter demolition order under Sections 343 & 344 of the DMC Act was passed on 04.06.2015. The demolition proceedings were conducted on 23.05.2016, however, the demolition of the entire unauthorized structure could not be carried out for various reasons. Subsequently, the subject property was again booked under Sections 343 & 344 of the DMC Act vide file No. 1214/C-68/B-II/UC/CLZ/2019 dated 13.09.2019 and a consequent demolition order was also passed on 02.12.2019. The Competent Authority passed sealing orders in respect of the subject property on 10.07.2015, pursuant to which the first and second floors thereof were sealed at the staircase portion on 15.07.2015.

6. Learned ASC submits that thereafter, respondent No. 3 challenged the demolition and sealing orders pertaining to file no. 186/C-63/B-11/UC/CLZ/2015 by filing appeals before the Appellate Tribunal MCD, which came to be dismissed vide common order dated 08.11.2017. The order dated 08.11.2017 was subsequently challenged before the learned Principal District & Sessions Judge, Rohini Court and vide common order dated 07.11.2020, the appeal against demolition order was allowed and the case was remanded back, however, the appeal against the sealing action was dismissed. It is informed that the order of the learned Principal District & Sessions Judge has not been challenged till date. Lastly, it is submitted that the property in question was inspected by the field staff on 04.04.2022 and the seal affixed by the department was found to be intact.

7. Learned ASC for respondent Nos. 1 & 2, on instructions, submits that a date for personal hearing of respondent No.3 has been fixed on 08.04.2022.

8. Learned counsel for the petitioner, on instructions, submits that the petitioner would also remain present on that date.



9. Learned counsel for respondent No. 4, *Hariom*, who is also present in the Court today, assures the Court that necessary assistance would be provided as and when requested. In case the petitioner is aggrieved by any further action on behalf of the respondents, he shall be at liberty to challenge the same in accordance with law.

10. In view of the aforesaid, no further orders are required to be passed in the present petition.

11. Needless to state that in case of any unauthorized construction, the respondents are duty bound to take necessary action, for which respondent No. 4 shall provide all necessary assistance.

12. With the above observations, the petition is disposed of.

(MANOJ KUMAR OHRI)
JUDGE

APRIL 06, 2022

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