



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

% Date of Decision: 19.05.2022

+ **W.P.(C) 13220/2021 & CM. APPL. No.45856/2021**

IN THE MATTER OF:

BABITA Petitioner
Through: Mr. Pradyumna Tyagi, Advocate

versus

SDMC AND ORS. Respondents
Through: Mr. Mukesh Gupta and Mr. Siddhant
Nath, Standing Counsels with Mr. Mayank
Ahuja and Mr. Raghav Gupta, Advocates
for respondent No.1/SDMC.

Mr. Santosh Kr. Tripathi, ASC (Civil),
GNCTD with Mr. Arun Panwar, Mr.
Siddharth Krishna Dwivedi and Mr. Aditya
S. Jadhav, Advocate with SI Mohit Kumar,
PS Maidan Garhi, New Delhi for
respondents No.2 and 3/SHO.

Mr. Tanmay Mehta, Mr. Sanjeev Dagar and
Mr. Sunil Chauhan, Advocates for
respondent No.4.

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 directions to respondent No. 1/SDMC for stoppage of work and removal of illegal and unauthorised



construction stated to be carried out by respondent No. 4 (as per amended memo of parties) at property bearing *Khasra No. 139, situated in the revenue estate of Village Maidan Garhi, New Delhi* (hereinafter, referred to as the '*subject property*').

2. The petitioner claims to be the joint owner of the subject property, alongwith respondent No.4, who in fact is stated to be her uncle. It is the petitioner's case that her father-*Late Sh. Het Ram* had filed a Civil Suit with respect to the subject property against respondent No.4, and after his passing away on 21.04.2020, respondent No.4 started raising illegal and unauthorised construction at the subject property in September, 2021. It is alleged that in connection therewith, the petitioner made several complaints to the concerned authorities, whereafter a notice dated 08.10.2021 was issued by respondent No.1/SDMC to the SHO, P.S. Maidan Garhi for stopping the unauthorised construction activity at the subject property, however, no further/prompt action was taken.

3. Mr. Pradyumna Tyagi, learned counsel for the petitioner, submits that the petitioner had filed representations and complaints to respondent Nos. 1, 2 and 3 on multiple occasions, but in response to the same no action was taken. He further submits that vide order dated 24.11.2021, this Court while issuing notice had recorded the submissions on behalf of respondent No. 1/SDMC to the effect that action has already been initiated by the Corporation against the unauthorised construction and further action in accordance with law shall be taken. On the same date, this Court had also directed that respondent No. 1/SDMC shall ensure that no unauthorised construction activity is permitted in the subject property, except in accordance with a sanctioned building plan, if any.



4. On the last date of hearing, it was informed that demolition order with respect to the alleged unauthorised construction was passed on 22.11.2021, against which respondent No.4 had approached the Appellate Tribunal, MCD and the demolition order came to be set aside vide order dated 08.03.2022. Statedly, the demolition order was set aside on the ground that the same was passed in violation of principles of natural justice inasmuch as no opportunity of personal hearing was granted to respondent No.4. The Appellate Tribunal, MCD had also passed directions for respondent No. 4 to appear before respondent No. 1/SDMC in order to submit his Reply and for him to be granted opportunity of personal hearing.

5. Today, it is informed that respondent No.4 has filed his Reply and personal hearing is fixed for 20.05.2022.

6. Learned counsel for the petitioner has raised a grievance that vide order dated 08.03.2022, respondent No.1/SDMC was directed to complete all the proceedings within one month, however, the said time limit has not been adhered to by both respondent No. 1/SDMC and respondent No. 4.

7. Mr. Tanmay Mehta, learned counsel appearing for respondent No. 4, on instructions from Mr. Sanjeev Dagar, Advocate, undertakes that respondent No.4 shall appear before the concerned authority on the date fixed, i.e. 20.05.2022. Insofar as grievance raised by the learned counsel for the petitioner with respect to alleged ongoing construction activity is concerned, Mr. Mehta, on instructions, submits that at present no construction is being carried out at the subject property and undertakes that no further construction would be carried out, except in accordance with sanctions/Court order/law. The undertaking given on behalf of respondent No.4 is taken on record and he is made bound by the same.



8. Mr. Mukesh Gupta, learned Standing Counsel appearing for respondent No. 1/SDMC, submits that a work-stop notice has already been issued to the concerned SHO, P.S. Maidan Garhi, New Delhi on 06.12.2021. He assures the Court that after considering the Reply submitted by respondent No. 4 as well as grant of personal hearing to him, a speaking order will be passed, as directed by Appellate Tribunal, MCD vide order dated 08.03.2022, within a period of two weeks from today.

9. Mr. Santosh Kr. Tripathi, learned ASC (Civil), GNCTD appearing for respondent Nos. 2 and 3, also assures the Court that strict vigil would be kept at the subject property and no further construction activity will be permitted, in view of communication received from respondent No.1/SDMC, except in accordance with sanctions/Court order/law.

10. In view of the above assurances/undertakings given on behalf of the respondents, as well as the fact that the matter is pending consideration before the concerned authorities, no further orders are required to be passed in the present petition.

11. Accordingly, the petition is disposed of, alongwith the pending application.

(MANOJ KUMAR OHRI)
JUDGE

MAY 19, 2022/v