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

Date of decision: 17.08.2023

+ **CM(M) 287/2020 & CM APPL. 8530/2020**

NEELAM PATHAK & ORS

..... Petitioners

Through: Mr. Vidur Kamra, Advocate

versus

SOUTH DELHI MUNICIPAL CORPORATION OF DELHI Respondent

Through: Mr. Ajay Digpaal, Advocate for R-1

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition impugns the order dated 20.02.2020 passed by the Appellate Tribunal Municipal Corporation of Delhi ('ATMCD or Appellate Tribunal') in appeal No. 80/2020, titled as, *Aruna & ors vs. South Delhi Municipal Corporation* whereby, the application seeking ad-interim stay of the demolition order dated 28.11.2016 was declined.

2. Learned standing counsel for Respondent, Municipal Corporation of Delhi ('MCD') states that the demolition order was duly served on Shri Vipin Gupta, the husband of Petitioner No. 12 herein i.e., Ms. Kavita Gupta.

2.1. He states that the receipt of the demolition order by Petitioner No. 1, Ms. Neelam Pathak is also duly admitted in this petition at para 16.

2.2. He states that the Respondent, MCD is relying upon the aforesaid service on Petitioner No. 1 and 12 and relies upon the written instructions received from the concerned Executive Engineer, which read as under:-



“3. That the record available with the department regarding service of the demolition order in respect of the subject property i.e. Flats/Shops in the name of New Ganga Apartment built on Khasra No. 613, Holi Chowk Devli Village, New Delhi, pursuant to order passed by this Hon’ble Court in WP(C) No. 9333/2017, it been noticed that the demolition orders as passed in respect of subject property have been served on one of the petitioner containing signature of one Sh. Vipin Gupta who is husband of Mrs. Kavita Gupta the Petitioner No. 12 in the instant petition and also on Sh. Rohtash Singhal who is the petitioner in the Writ Petition bearing No. 9333/2017. The copy of the demolition order containing the signature of Sh. Vipin Gupta are annexed herewith as Annexure-A(Colly).

4. That moreover, it is also pointed out that in the instant petition in para (xvi) it has been specifically admitted that the Respondent has supplied the copy of demolition order to Ms. Neelam Pathak.”

2.3. He states that a status report duly enclosing the copy of the demolition order containing the signature of Shri Vipin Gupta will be placed before the ATMCD on 21.08.2023.

3. The parties jointly agree that the issue of due service of demolition order upon the Petitioners herein may be decided afresh by the Appellate Tribunal while disposing of the appeal, which is listed for disposal on 21.08.2023.

4. The parties further jointly make a request that directions for expeditious disposal of the appeal be passed in this petition.

5. Accordingly, with the consent of the parties, the present petition is disposed of with the following directions: -

i. The parties shall remain present before the Appellate Tribunal on 21.08.2023 and co-operate with the Appellate Tribunal in expeditious disposal of the appeal.

ii. The Appellate Tribunal is requested to hear and dispose of the appeal preferably within a period of three (3) months from 21.08.2023.

iii. The parties are directed to ensure that they do not seek any



adjournment and are duly represented by their counsel at each date of hearing before the Appellate Tribunal.

6. The interim order dated 02.03.2020 passed by this Court shall continue until the final disposal of the appeal.

7. The Respondent, MCD will file the affidavit enclosing the service of demolition order on Mr. Vipin Gupta, the husband of Petitioner No. 12 herein i.e., Ms. Kavita Gupta on or before 21.08.2023 before the Appellate Court.

8. It is made clear that this Court is not examined the merits of the matter pending before the ATMCD and the same will be decided by the Tribunal in accordance with law.

9. With the aforesaid directions, the present petition is disposed of.

10. Pending Applications, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA
(JUDGE)

AUGUST 17, 2023/rhc/ms

[Click here to check corrigendum, if any](#)

न्यायमेव जयते