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

*Date of decision: 03.11.2023*

+ **CM(M) 1790/2023, CM APPL. 56783/2023 & CM APPL. 56784/2023**

SH. SANJEEV GUPTA & ORS.

..... Petitioners

Through: Mr. Madhur Dhingra, Advocate

versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr. Ashutosh Gupta, ASC with Mr. Arman Monga, Advocate for MCD

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+ **CM(M) 1795/2023, CM APPL. 56813/2023 & CM APPL. 56814/2023**

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..... Petitioner

Through: Mr. Madhur Dhingra, Advocate

versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr. Ashutosh Gupta, ASC with Mr. Arman Monga, Advocate for MCD

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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):**

**CM APPL. 56784/2023 in CM(M) 1790/2023 (for exemption)**

**CM APPL. 56814/2023 in CM(M) 1795/2023 (for exemption)**

Allowed, subject to all just exceptions.



Accordingly, the present applications stand disposed of.

**CM(M) 1790/2023 & CM APPL. 56783/2023**

**CM(M) 1795/2023 & CM APPL. 56813/2023**

1. The facts arising for consideration in this matter are common and therefore, these petitions are being disposed of by this common order.
2. These petitions filed under Article 227 of the Constitution of India impugn the orders both dated 25.10.2023 passed by the Appellate Tribunal Municipal Council of Delhi ('ATMCD') in appeal nos. 689/2023 and 687/2023.
3. The learned counsel for the Petitioners states that the Petitioners have filed a statutory appeal under Section 343 (2) of the Delhi Municipal Corporation Act, 1957, impugning the demolition order dated 13.07.2022 and sealing order/show cause notice dated 04.07.2022 issued in respect of properties bearing No. 886-E, Ward No. 08, Mehrauli, New Delhi and 886-E-49-B, Ward No. 08, Mehrauli, New Delhi respectively.
  - 3.1 He states that along with the appeal the Petitioners herein have filed the application under Section 5 of the Limitation Act, 1963 (1<sup>st</sup> Application) and an application seeking interim-stay of the demolition order and the sealing order/show cause notice until the disposal of the appeal (2<sup>nd</sup> Application).
  - 3.2 He states that the ATMCD while directing the Respondent to file its reply to the 1<sup>st</sup> application seeking condonation of delay has, however, not passed any orders on the 2<sup>nd</sup> application seeking interim stay of the demolition order and the sealing order/show cause notice.
  - 3.3 He states that the Petitioners apprehend that the Respondent herein



may execute the demolition order prior to hearing and disposal of the said applications.

3.4 He, therefore, prays that the Petitioners herein may be protected until the hearing of the said applications for interim stay by the ATMCD. He states that the Petitioner will be duly present before ATMCD to address arguments on 16.11.2023 and therefore, protection be granted until the said date of hearing.

4. The learned counsel for the Respondent has entered appearance and accepts notice. He states that the Respondent will file its reply to the said 1<sup>st</sup> application for condonation of delay on or before 16.11.2023 and the Respondent will remain duly represented for addressing arguments in the appeals and more specifically the 2<sup>nd</sup> application for interim stay.

4.1 He states that he has no objection if the Petitioners are granted limited protection against demolition until the disposal of their 2<sup>nd</sup> application seeking interim stay of the operation of the impugned orders.

5. This Court has considered the submissions of the parties and perused the record.

6. This Court finds merit in the submission of the learned counsel for the Petitioners, that the 2<sup>nd</sup> application seeking interim stay will be rendered infructuous, if protection is not granted until the said application is adjudicated by ATMCD.

7. Accordingly, the operation of impugned demolition order dated 13.07.2022 and sealing order/show cause notice dated 04.07.2022 are stayed until the 2<sup>nd</sup> application of interim stay is adjudicated by the ATMCD; subject to the Petitioner remaining present before the ATMCD to address arguments.



7.1 It is made clear that the said direction is not an observation on the merits of the claims raised by the Petitioners herein and has been passed only as an ad-interim measure to enable the Petitioners to have the application adjudicated on merits in accordance with law. The learned ATMCD is directed to adjudicate on the said application on its own merits and in accordance with law.

7.2 The Petitioner is directed to remain present before the ATMCD on 16.11.2023 and each subsequent date for addressing arguments on the 2<sup>nd</sup> application. It is made clear that if the Petitioners seeks unnecessary adjournments the ATMCD will be at liberty to vacate the interim protection granted by this Court.

8. With the aforesaid directions, the present petitions stand disposed of.

9. Pending applications stand disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**NOVEMBER 3, 2023/msh/sk**

*Click here to check corrigendum, if any*