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

+ **W.P.(C) 91/2024**

MOHD. YUNUS

.....Petitioner

Through: Ms. Roopa Nagpal, Mr.
Ashwani Gehlot, Mr. Vijay,
Mr. Shashank Hansit Singh and
Ms. Akansha, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ANR.

.....Respondents

Through: Mr. Manish Srivastava, Mr.
Moksh Arora and Mr. Santosh
Ramdurg, Advs.

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+ **W.P.(C) 187/2024, CM APPL. 16597/2024 (for
impleadment) and CM APPL. 16598/2024 (stay)**

RIYASAT ALI

.....Petitioner

Through: Ms. Roopa Nagpal, Mr.
Ashwani Gehlot, Mr. Vijay,
Mr. Shashank Hansit Singh and
Ms. Akansha, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ANR.

.....Respondents

Through: Mr. Mukesh Gupta, SC for
MCD with Mr. Raghav Gupta,
Adv.
Mr. Manish Srivastava, Mr.
Moksh Arora and Mr. Santosh
Ramdurg, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV



ORDER
08.07.2024

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1. Heard learned counsel appearing for the parties.
2. Since the alleged illegal construction is relating to property No.737-738, Gali No.10, Main 25 Foota Road, Gandhi Nagar, New Mustafabad, Delhi-110094, therefore, both the matters are taken up for analogous hearing.
3. Learned counsel appearing for the petitioner in W.P.(C) 91/2024 submits that on 21.07.2023, the petitioner had filed the latest representation/ complaint to various authorities, including the respondent-MCD pointing out illegal construction over the aforesaid property and thereafter, he has carried forward the matter by way of subsequent representations.
4. He further submits that since no action was taken, he had to approach this Court by way of W.P.(C) 10902/2023 and *vide* order dated 17.08.2023, the said writ petition came to be disposed of observing that the petitioners therein shall file a representation before the Special Task Force and the said authority shall take up the representation to its logical end.
5. The petitioner also submits that despite necessary steps, the respondents have not taken any concrete action and therefore, he has approached this Court by way of the instant writ petition.
6. On notice being issued to the respondents, the respondent-MCD had filed status report stating *inter alia* that the property was booked *vide* file No.92B dated 16.08.2023 for unauthorised construction in the shape of shops at the ground floor.
7. Various further statements would suggest that the respondent-MCD had taken action with respect to the property in question.



8. Paragraph Nos.4 to 12 of the status report are being reproduced as under:

“4. That the property was booked vide booking file No. 92/BI/UC/SH-N/2023 dated 16/08/2023 for unauthorized construction in the shape of shops at ground floor. A show cause notice No. 4830 dated 16.08.2023 was issued and served upto the owner/occupier of the property but no reply for this notice was received within stipulated time. A demolition notice No. 4830 dated 30.08.2023 was issued and served upon the owner/ occupier but the owner/occupier failed to comply the directions given in the demolition notice within stipulated time and demolition orders were passed on 11.09.2023.

*5. That a demolition action programme was fixed for 06.12.2023 with PS Dayalpur, and during the course of action one RCC Panel of size 6X5 feet at ground floor and another RCC panel of size approx 6X6 feet at room at 1st floor was demolished and reinforcement bars were cut down (photograph attached as **Annexure R-1**).*

*6. That a letter was written to the SHO, PS Dayalpur vide No. AE (B)-I/SH- N/2023/D-481 dated 08.12.2023 to direct the patrolling staff to keep a strict vigil on the property so as the owner builder cannot take up any construction activity as demolished by the MCD staff (copy of letter is attached as **Annexure R-2**).*

*7. That through this civil writ petition it was revealed that the demolished portion of the property has been repaired & reconstructed. A demolition programme was fixed with PS Dayalpur on 22.01.2024 but action could not be taken due to non availability of police force. 8. That a demolition programme was taken on the suit property on 06.02.2024 with the help of PS Dayalpur and two numbers of RCC panels were demolished and reinforcement was cut with the help of gas cutter on ground floor & first floor respectively (photograph attached as **Annexure R-3**).*

*9. That a demolition programme was taken on the suit property on 11.03.2024 with the help of PS Dayalpur and two numbers of RCC panels were demolished and reinforcement was cut with the help of gas cutter at ground floor (photograph attached as **Annexure R-4**).*

10. That the demolition order dated 30.08.2023 has been challenged in ATMCD vide appeal No. 40/2024 titled as Farid Ahmed Vs MCD. The hearing in ATMCD have been held on 09.02.2024, 04.03.2024 & 20.05.2024. The next date of hearing in ATMCD is fixed for 06.08.2024.

11. That an application for the regularization of the property was



*submitted in the MCD office vide diary No. 02 dated 10.01.2024. The regularization application was rejected vide letter No. AE (B0-I/SH- N/2024/D-25 dated 25.01.2024. The ATMCD while hearing the appeal No. 40/24 in the case titled Farid Ahmed Vs MCD, directed the MCD to re-examine the regularization application vide its order dated 09.02.2024 (photocopy attached as **Annexure R-5**) . The regularization application was re-examine but was again rejected vide letter No. AE (B)-I/SH-N/2024/D-65 dated 07.03.2024.*

12. That a demolition action programme has been fixed for 23/07/2024 with the help of PS Dayalpur and further action shall be taken on the remaining portion of the property.”

9. Learned counsel appearing for the petitioner submits that there are three shops, out of which, one shop was not even touched by the respondent. Even with respect to remaining shops, some demolition action was taken initially, however, the said shops are rebuilt and the rebuilt shops still exist.

10. It be noted that after filing of the status report, the petitioner has not filed any affidavit pointing out the aforesaid aspects. In any case, if the petitioner has any further grievance, the same can be redressed *via* the Special Task Force which is already in place. The petitioner shall be well within his rights to approach the said authority and in case the concerned authority is approached by way of an appropriate representation, undoubtedly, the said authority shall deal with the same and take the issue to its logical end.

11. With the aforesaid liberty, this Court, at this stage, does not find any reason to continue these writ petitions on the Board. Accordingly, the instant petitions stand disposed of.

PURUSHAINDRA KUMAR KAURAV, J

JULY 8, 2024/p