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

+ **W.P.(C) 215/2024**

SANJIV KUMAR VASHIST Petitioner

Through: Petitioner-in-person.

versus

**MUNICIPAL CORPORATION OF DELHI THROUGH ITS
COMMISSIONER & ORS.** Respondents

Through: Mr. Ajjay Aroraa, Mr. Kapil Dutta
and Mr. Vansh Luthra and Ms.
Simran Arora, Advs. for MCD.
Mr. C.S. Rathor and Mr. Sanjeev
Kumar, Advs. for R4.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **09.05.2024**

CM APPL. 27439/2024 (Early Hearing)

1. This is an application seeking early hearing of the instant writ petition.
2. It has been averred in the application that the applicant is facing harassment from the petitioner on account of the pendency of the present writ petition and that the petitioner has demanded certain sums of money from the applicant.
3. The application is supported by learned counsel for the MCD who submits that the controversy involved in the matter is significantly narrowed down in view of the status report dated 01.05.2024 filed by the MCD with regard to the property in question.
4. Considering the averments made in the application and particularly



the stand taken by the MCD in its status report dated 01.05.2024, the present application is allowed.

5. W.P.(C) 215/2024 is taken up for consideration today itself.

W.P.(C) 215/2024

6. The present petition has been filed by the petitioner alleging unauthorized construction in the property bearing house No.757 (part), Chirag Delhi, New Delhi-110017.

7. In the status report dated 01.05.2024, filed on behalf of the MCD, it has been brought out that a regularization application was filed by the owner/occupier of the property in question which came to be rejected vide letter dated 29.04.2024 and thereafter, a demolition order has also been passed by the MCD with regard to the property in question. The relevant portion of the status report is reproduced hereunder:

“3.That in response to the Invalid Notice (IN) bearing No. 2128/EE(B)-I/SZ/2024 dated 15/03/2024, as issued in the regularization proceedings, the notice/owner/occupier of the subject property bearing No.757-C, Chirag Delhi, New Delhi, submitted his reply on 15/04/2024. However, on noticing that the compliances had not yet been met by the applicant/notice, the regularization application has duly been rejected. The copy of the rejection letter dated 29/04/2024 as communicated to the applicant is annexed herewith as Annexure-A.

4. That moreover, after rejection of the aforementioned regularization application, the necessary reasoned demolition order has also been passed by the Competent Authority i.e. Assistant Engineer (Bldg)-I of South Zone – MCD vide dated 30/04/2024, in the demolition proceedings as initiated vide U/c File No. 03/UC/B-I/SZ/2024, mainly holding therein as follow:-

“-----

AND WHEREAS, the Ir. Engineer (Bldg.) concerned has also inspected the site, taking into account the submissions made and documents put forth by the notice, which includes Rent Agreement dated 06/07/2007 (for second floor), Rent Agreement



dated 14/05/2009) for third floor), Surviving Member Certificate, Copy of acknowledgement showing filing of an application for issuance of Relinquishment Deed from Sub-Registrar Office, receipt showing depositing of processing fee of Rs.1000/- towards processing fee for regularization, Letter dated 04/07/2024 issued by Tehsildar along with report of Halqa Patwari, Death Certificate of Shri Gopal Kalra Gopal Kishan Kalra, extract of bank passport (PNB), Rent Agreement dated 07/03/2003, Rent Agreement dated 22/10/2001, Reply to the show cause notice dated 12/01/2024, copy of duly acknowledged letter dated 30/05/2023 addressed to DC/SZ (as per its averments the notice had requested for allowing her new construction at the same place), copy of letter dated 19/07/2023 addressed to Councilor (with MLA stamp); requesting she may be allowed new construction at the same place, electricity bill dated 16/04/2014, 05/04/2012 & 12/02/2023, MTNL bill, electricity bill, Water bill and photographs showing dilapidated condition of property (roof casted with red stone with iron girder support)' in this regard, it has been reported that the documents submitted by the notice bear no significance, as the present position narrates a completely different position that after razing or demolishing an old existing building the notice has raised afresh construction. The photographs submitted by the notice prior to raising afresh construction and the present site position make the entire scenario, as clear as crystal and in this manner corroborate or justify the version of the department, as far as initiation of action on account of unauthorized construction from ground to part fourth floor is concerned.

In view of above, I. Yashwant Singh, Assistant Engineer (Bldg), South Zone vested with the powers of the Commissioner, MCD under Section 343 (1) read with Section 491 of DMC Act, hereby direct to demolish/remove the unauthorized construction of ground floor, first floor, second floor, third floor and part fourth floor, within six days from the receipt of this order, failing which it will be demolished by the MCD at your risk and cost.

*Issued under my hand seal on this ----- day of ---
-----, 2024."*

The Copy of the aforementioned reasoned/demolition order has been duly communicated to the owners/occupiers/noticee vide bearing No.D/168/AE(B)/SZ/2024 dated 30/04/2024 and the



copy of the same is also annexed herewith as Annexure – B.

5. *That pursuant to the aforesaid demolition order, the necessary action will be taken in respect of the subject property upon expiry of stipulated 06 days time as granted therein, as per law.”*

8. Learned counsel for the MCD submits and undertakes on instructions that necessary action qua the unauthorized construction shall be taken in accordance with law and shall be concluded expeditiously.

9. Learned counsel for the petitioner vehemently contends that vide order dated 15.02.2024, the respondent/MCD was directed to file a counter-affidavit in the matter along with photographs. He submits that although a status report has been filed on behalf of the MCD, no photographs of the unauthorized construction have been filed. He apprehends that in the guise thereof, the respondent/MCD shall omit to take action with regard to the property in question and instead take action with regard to some other property.

10. The relevant photographs of the property and of the unauthorized construction with regard to which the present petition has been filed have been filed by the petitioner as Annexure A-2 to the petition.

11. Learned counsel for the MCD undertakes on instructions, that the necessary demolition action, as referred to in the status report shall be taken in respect of the very same property of which photographs have been filed by the petitioner as Annexure A-2 to the present petition.

12. It is further submitted that demolition action shall be taken qua the entire subsisting unauthorized construction and that the same shall satisfy the primary prayer of the petitioner in the present petition.

13. In view of the aforesaid stand taken by learned counsel for the MCD,



no further orders are required to be passed in the present petition. The same is accordingly, disposed of; however, binding the respondent/MCD to the aforesaid statement.

14. Let a compliance affidavit be filed by the respondent/MCD within a period of eight weeks from today.

15. In case there is any deficiency in the action taken by the MCD, the petitioner shall be entitled to avail appropriate remedies under law.

16. Needless to say any action proposed to be taken by the MCD, shall be subject to the statutory/appellate remedies of the owner/ occupier of the property in question.

SACHIN DATTA, J

MAY 9, 2024/cl