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

+ W.P.(C) 1266/2024 & CM APPLs. 60843-60844/2024

HEMANT KUMAR

.....Petitioner

Through: Mr. Gaurav Kr. Singh, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI

& ORS.

.....Respondents

Through: Ms. Mehak Nakra, ASC with Ms. Gunjan Suyal and Ms. Anjali Pandey, Advocates for R-2.
Mr. Manu Sishodia, Advocate for Intervener.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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16.10.2024

1. The petitioner has approached this Court under Article 226 of the Constitution, complaining of alleged illegal construction at property No. 10917 (Part), Mayank Pura, Karol Bagh, New Delhi-110005.
2. In the status report filed by the Municipal Corporation of Delhi ["MCD"] dated 19.09.2024, it has been stated as follows:

"3. That as per record, action had been initiated u/s 343 & 344(1) of the DMC Act. 1957 against Property No. 10917 (part), Manakpura, Karol Bagh, New Delhi-05 in the shape of U/C of slab cast above 3 feet from the road level, excavation of earth work about 3 feet below the road level to construction of basement vide File No. 367/B/UC/SPZ/2016 dated 07.11.2016. The order of demolition had been passed on 18.11.2016

4. That further action had been initiated u/s 343 & 344(1) of the DMC Act. 1957 in the shape of U/C of GF and First floor with projection of



Mpl. Land vide file No. 383/B/UC/SPZ/2016 dated 22.11.2016. The order of demolition had been passed on 01.12.2016. In continuation of the above, action had further been taken over the second floor and third floor with projection on Mpl. land vide file no. 403/B/UC/SPV/2016 dated 20.12.2016.

5. That action had also been initiated u/s 345A of the DMC Act for sealing of the premises vide no. 124/S/B/SPZ/16 dt. 22.11.2016. The order of sealing had been passed on 28.11.2016. The entire property had been sealed on 28.11.2016. Communication was sent to the SHO P.S. D.B. Gupta Road, Karol Bagh, New Delhi vide no. D-1404/AE(B)/SPZ/2016 dated 28.11.2016. The seals had been tampered and the property was re-sealed on 27.12.2016.

6. That demolition action had been taken on 27.12.2016 wherein, walls and projections at first floor had been demolished.

7. That the property was inspected by the concerned JE(B)/KBZ on 04.09.2024 and the seal of the property was found tempered/broken. The property was also found occupied.

8. That a letter vide no. D/EE(B)/DC/KBZ/2024/478 dated 09.09.2024 has been sent to Deputy Commissioner of Police, central District, Delhi to lodge an FIR u/s 188 of IPC and 46I of the DMC Act, 1957 against the owner/occupiers of the property for tempering/breaking the seals affixed by the MCD. Copy of the letter dated 09.09.2024 is annexed herewith as Annexure-A.

*9. That a Vacation Notice u/s 349 of the DMC act, 1957 has also been issued to the owner/occupiers vide no. D/AE(B)/KB7/2024/1868 dated 06.09.2024 to vacate the property so that demolition/sealing action against unauthorized construction existing in the premises may be taken. Copy of the notice dated 06.09.2024 is annexed herewith as **Annexure-B**.*

10. That a demolition/sealing programme against the property has also been fixed for 27.09.2024.”

3. An application for impleadment has been filed by one Ramesh Chand, claiming to be an owner of the property which has been purchased in the year 2017.

4. Learned counsel for the applicant, states that he has filed an appeal before the Appellate Tribunal of Municipal Corporation of Delhi [“ATMCD”], against the demolition order which remains pending.



5. In view of the fact that MCD is in the process of taking action with regard to the alleged unauthorised/illegal construction, no further orders are required in this writ petition, which stands disposed of.
6. However, MCD is directed not to take further action, in respect of the demolition order, which in any event, was passed as far back as 2016, for a period of 4 weeks from today, to enable the owners/occupants to avail their remedies in accordance with law.
7. In the event any interim order is granted by the ATMCD, the parties will abide by the same, otherwise the MCD may take action expeditiously, in accordance with law, after lapse of period of 4 weeks from today.
8. It is made clear that this Court has not made any observation with regard to the merits of the matter, which are for the ATMCD to adjudicate in accordance with law.
9. The writ petition stands disposed of with these observations.

PRATEEK JALAN, J

OCTOBER 16, 2024/MR/