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

+ LPA 83/2024 & C.M.No.5680-5681/2024

SHAMMI CHADHA

..... Appellant

Through: Mr.Ashish Laroia with Ms.Sheetal Bhati,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI & ANR. Respondents

Through: Mr.Chaitanya Singh with Mr.Chetan
Sharma, Advocates for MCD.

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Date of Decision: 31st January, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present appeal has been filed challenging the judgment dated 12th January, 2024 passed by the learned Single Judge in W.P.(C) No.470/2024 on the ground that the learned Single Judge has disposed of the writ petition without hearing the appellant and demolition order has been passed in respect of appellant's property at B-153, Gandhi Vihar, Delhi-110009. He prays for stay of the vacation notice dated 18th January, 2024 issued by Respondent no.1-Municipal Corporation of Delhi ('MCD').

2. Learned counsel for the appellant states that the appellant was never served in the W.P.(C) No.470 of 2024 even though he was arrayed in the memo of parties. He submits that in the present case, there has been violation of principle



of natural justice. He further states that the impugned order is based on concealment of facts by the respondent, as the whole Gandhi Vihar has been constructed in the similar manner and the property of the appellant is no different from the other constructed properties of Gandhi Vihar. He claims violation of Article 14 of the Constitution of India.

3. Learned counsel for the appellant states that even the photographs filed by the respondent no.2 in W.P.(C) No. 470 of 2024 are not of the suit property. He states that the suit property is an old constructed property which was bought by the appellant in 2022 and since the purchase, the appellant has not made any structural changes to the suit property.

4. Learned counsel for the respondent-MCD, who appears on advance notice, states that the property in question had been booked on 15th September, 2023 on account of illegal and unauthorised construction and the eviction notice has been passed on 18th January, 2024.

5. During the hearing we have repeatedly asked the learned counsel for the appellant as to whether the appellant has any sanction/permission from any statutory authority. In reply, he candidly states that he has none.

6. Consequently, the admitted position that emerges is that the appellant is an occupant of an illegal and unauthorised construction. The only defence of the appellant is that all in the neighbourhood have carried out illegal and unauthorised construction.

7. This Court is of the view that Article 14 of the Constitution of India does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief illegally or inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case by a statutory



authority, it cannot be perpetuated by the Court. Consequently, the present appeal being bereft of merit is dismissed along with the applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 31, 2024
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Signature Not Verified

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