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

+ **W.P.(C) 2969/2022**

TARVAN KUMAR

.....Petitioner

versus

SDMC AND ORS.

.....Respondents

+ **W.P.(C) 13603/2024**

DELHI TOURISM AND TRANSPORTATION
DEVELOPMENT CORPORATION

.....Petitioner

versus

MUNICIPAL CORPORATION
OF DELHI & ORS.

.....Respondents

Appearance:-

Mr. Rajiv Kumar Ghawana, Mr. Ashish Kumar & Mr. Ranjit Singh Daler, Advocates Petitioner in Item No. 48 and for R-5 in Item No. 49. [M:-9899308878]

Mr. Abhimanyu Garg, Advocate for Petitioner-Delhi Tourism and Transportation Development Corporation in Item No. 49.

Mr. Shiv Charan Garg, Mr. Imran Khan & Ms. Jahanvi Garg, Advocates for R-4/Owner in Item No. 48

Mr. Ajjay Arora, Standing Counsel with Mr. Kapil Dutta & Mr. Bhavishya Makhiya, Advocates for MCD in Item Nos. 48 & 49.

Mr. Prashant Manchanda, ASC for GNCTD with Ms. Nancy Shah & Ms. Haridas Medha D., Advocate for R-2 in Item No. 48.

Mr. Gaurav Sharma, Senior Panel Counsel for UOI with Mr. Siddhartha Nagpal, Advocate for R-2/SHO in Item No. 49.



CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
% 27.09.2024

CM APPL. 56933/2024(Exemption) in W.P.(C) 13603/2024

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 2969/2022 & CM APPL. 56847/2024
W.P.(C) 13603/2024 & CM APPL. 56934/2024

1. These two petitions under Article 226 of the Constitution concern the same property [67/P, Bakey Lal Market, Badarpur, Delhi-110044].
2. The writ petitioner in W.P.(C) 2969/2022 seeks action by the Municipal Corporation of Delhi ["MCD"] of demolition/sealing against the property, on the ground of unauthorised construction, and non-compliant usage of the property as a liquor vend. The owner of the property has been arrayed as respondent No. 5 in the writ petition. He has filed CM APPL. 56847/2024 for a direction upon respondent No. 1 – MCD to consider his representation dated 23.09.2024 against the demolition order dated 30.08.2016 and sealing order dated 28.10.2016 passed by MCD.
3. The petitioner in W.P.(C) 13603/2024 is Delhi Tourism and Transportation Development Corporation ["DTTDC"], which is the tenant of the suit property since October, 2022. It seeks a direction upon the respondents, protecting it from a coercive action in pursuance of the demolition and sealing orders. In the course of hearing, Mr. Abhimanyu Garg, learned counsel for DTTDC, states that stocks of liquor are lying at the premises, which is now under seal. DTTDC would be satisfied with a



direction that the property be de-sealed temporarily, so that it can remove the goods lying in the premises.

4. I have heard learned counsel for the petitioners in both the petitions, Mr. Ajjay Arora, learned Standing Counsel for MCD, and Mr. Shiv Charan Garg, learned counsel for respondent No. 5 in W.P.(C) 2969/2022 [the owner of the premises]. With the consent of learned counsel for all the parties, both petitions are taken up for disposal.

5. As far as the allegation of unauthorised construction is concerned, MCD has already sealed the property, and also passed an order for demolition on 30.08.2016. The owner has challenged the sealing and demolition orders before the Appellate Tribunal, Municipal Corporation of Delhi [“ATMCD”] and the civil court respectively. It is the submission of Mr. Shiv Charan Garg, learned counsel for the owner, that the premises are covered by the National Capital Territory of Delhi Laws [Special Provisions] Act, 2007.

6. By an order passed yesterday, i.e. 26.09.2024, he was granted protection for a period of one week so that his applications can be heard by the appropriate forum.¹ The rights and contentions of the parties in this regard are left open for adjudication by the forums, which are in seisin of appeal/suit.

7. The aspect of unauthorised construction is taken care of by the aforesaid directions. It is made clear that MCD is at liberty to proceed in terms of the orders, in the absence of any stay granted by the ATMCD or

¹ In the order dated 26.09.2024 in W.P.(C) 2969/2022, a submission on behalf of the petitioner was noted to the effect that the ATMCD was not sitting that day. I am informed that the ATMCD was in fact functioning on 26.09.2024, but there was some confusion due to an earlier intimation that the learned Presiding Officer would not be available.



the civil court, in respect of the sealing and demolition orders.

8. The aspect of commercial use of the property does not survive for consideration, as Mr. Abhimanyu Garg states that DTTDC does not propose to continue with the liquor vend at the premises in question. It may be noted that the tentative submissions of Mr. Arora are that commercial activities are permissible in the location in question. However, as DTTDC does not propose to continue with the activity, which was the subject matter of the grievance raised in W.P.(C) 2969/2022, it is unnecessary to adjudicate the point in this petition. Suffice it to say that the rights and contentions of the parties are reserved, in the event the petitioner has any objection to any activity carried out at the premises in future.

9. The only remaining question is with regard to the stocks of DTTDC which are lying in the premises. As far as this aspect is concerned, Mr. Arora states that an application for temporary de-sealing has already been made by DTTDC on 24.09.2024, but there are certain defects in the application which require to be rectified. He states that the defects will be communicated to DTTDC, through counsel, in the course of the day. He submits that MCD will consider the application, in accordance with law, upon rectification of all defects. Upon rectification of the defects, MCD is directed to de-seal the premises forthwith, for a period of 48 hours, to enable DTTDC to remove the stocks lying there.

10. Mr. Abhimanyu Garg states that, before lifting the goods and shifting them to another location, permission of the Excise Department is also required for which purpose, it has addressed a communication dated 25.09.2024 to the Excise Department. Learned counsel for Excise



Department is present. The Department is directed to take the necessary decision within the next three days, so that the aforesaid steps can be carried out in good time.

11. Both writ petitions are disposed of in the aforesaid directions. The next date of hearing in W.P.(C) 2969/2022 i.e., 23.10.2024 stands cancelled.

12. A copy of the order be given *dasti* under the signature of the Court Master.

PRATEEK JALAN, J

SEPTEMBER 27, 2024
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