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

+ **CONT.CAS(C) 319/2024**

SURENDER KUMAR

..... Petitioner

Through: **Mr. Vinay Bhushan, Advocate**
versus

GYANESHWAR BHARTI & ORS.

..... Respondents

Through: **Ms. Puja Kalra, SC-MCD**
(M:9312839323)
Mr. Sagar Saxena, Advocate for R-2
Mohd. Irsad, ASC-GNCTD with Ms.
Nasreen, Mr. Kunal Raj, Advocates
for R-3 (M:9999679903)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

14.05.2024

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1. The present petition has been filed alleging willful disobedience of the order dated 10th January, 2024 passed in *W.P.(C) 311/2014*.
2. By way of the aforesaid order, the writ petition filed by the petitioner, alleging unauthorized construction without sanction plan at *Plot No.6, Gali No.1, Sunday Market, Near Harijan Chopaal & Rahul Paneer Bhandar, Aaya Nagar, Khasra No. 1857/1858, South Zone, New Delhi-110047*, was disposed of by recording the submission made on behalf of the Municipal Corporation of Delhi ("MCD"), that action had already been initiated and further action qua the subject property shall be taken expeditiously in accordance with law.
3. Learned Standing Counsel for the respondents draws the attention of this Court to the latest Status Report filed on behalf of the MCD, wherein it



has been stated as follows:

“xxx xxx xxx

9. That pursuant to aforesaid directions, so as to ascertain the status of the subject property i.e. bearing No. Plot No. 6, Gali No. 1, Sunday Market, Near Harijan Chopaal & Rahul Paneer Bhandar, Aya Nagar, Khasra No. 1857/1858, South Zone, New Delhi - 110047 the same has been got inspected through the area field staff of Building Department-II of South Zone/ answering Respondent/ MCD and also referred to the record available in this regard.

On inspection and referring to the record, the status of the property as noticed is detailed herein below:-

i) As per record, the subject property is already stands booked vide file No. 04/UC/B-II/SZ/2024 dated 03/01/2024 in the shape of Ground floor and First floor, for taking the necessary demolition action u/s 343/344 of DMC Act. Upon following the due process of law, the necessary demolition order has also stands passed by the Competent Authority i.e. AE (Bldg)-II of South Zone/ MCD vide dated 16/01/2024. The copy of the demolition order is annexed herewith as **Annexure-A.**

ii) Furthermore, a letter dated 05/01/2024 u/s 344 (2) of the DMC Act, has also been sent to SHO, PS. Fatehpur Beri, New Delhi with the request that the unauthorized construction be stopped and workmen present at site/ property in question. be removed and construction material including the tools, machinery, etc. be seized. Copy of the said letter is also annexed herewith as **Annexure-B.**

iii) Besides this, a letter dated 05/01/2024 for disconnection of electricity and water supply from the aforesaid property has also been sent to the concerned authorities. Copy of the said letter is are also annexed herewith as **Annexure-C.**

iv) Moreover, a letter dated 05/01/2024 has also been sent to the Sub-Registrar with the request not to register this property under Indian Registration Act, 1908. Copy of the said letter is also annexed as **Annexure-D.**

v) Apart from this, Prosecution action u/s 466-A of DMC Act, 1957 has also been initiated and a complaint dated 12/02/2024 has also been sent to concerned, SHO PS Fatehpur Beri, New



*Delhi. Copy of the said complaint is also annexed herewith as **Annexure -E.***

*vi) Further it is also relevant to point out that in respect of the property in question, the necessary sealing proceedings u/s 345-A of DMC Act, has also been initiated and after following due process of law, the necessary sealing order has also been passed by the Competent Authority i.e. the then Deputy Commissioner of South Zone/ MCD vide dated 23/02/2024. Copy of the sealing order is also annexed herewith as **Annexure-F.***

10. That it is also pointed out here that pursuant to aforesaid demolition/ sealing orders already passed in respect of the subject property, the Building Department-II of South Zone - MCD has also tried/ taken/ carried out the necessary demolition/ sealing action as per details given here below:

S.No.	Date of Action	Action Taken
1.	04/03/2024	Upon availability of police force, 01 RCC panel at roof of First floor has been demolished and cut the steel bars with the help of gas cutter. Beside this, First floor of the property has been sealed at 01 point.
2.	02/05/2024	Action could not be taken due to shortage of time.

*The photographs taken during the aforesaid demolition/ sealing action are also annexed herewith as **Annexure-G (Colly).***

*11. That after taking the aforementioned demolition/sealing action, a letter dated 06/03/2024 has also been sent to concerned SHO PS Fatehpur Beri, with the request to direct the area patrolling staff to keep strict watch and ward over the subject property so that the demolished portion may not be re-storedI repaired and the seals affixed by the department may not be tampered with. Copy of the said letter is annexed herewith as **Annexure-H.***

12. That now the department has fixed the further necessary demolitionI sealing action programme in respect of the subject property for 22/05/2024, upon availability of police force.

xxx xxx xxx”

4. Perusal of the aforesaid Status Report shows that partial action has



already been taken by the MCD and the property is also lying sealed under the seal of the MCD. Further, it is noted that further action is now fixed by the MCD for 22nd May, 2024.

5. Learned counsel appearing for the MCD undertakes that appropriate action shall be taken, and the unauthorized construction existing in the subject property, shall be demolished.

6. The aforesaid statement made on behalf of MCD is recorded and the MCD is held bound by the said statement. It is directed that requisite Police force shall be provided by respondent no. 3-SHO, Police Station, Fatehpur Beri, whenever any action is taken by the MCD on the subject property.

7. Accordingly, the present petition is disposed of. However, liberty is granted to the petitioner to revive the present petition, in case of any non-compliance by the respondents.

MINI PUSHKARNA, J

MAY 14, 2024

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