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

+ **W.P.(C) 3595/2023**

RAMESH CHAND GUPTA

.....Petitioner

Through: Mr. M. M. Singh, Ms. Ayushi Mishra,
Adv.

versus

MCD & ORS.

.....Respondent

Through: Mr. Abhinav Singh, Mr. Praveen
Kaushik, Advs for MCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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03.09.2024

1. The petitioner has prayed for the following reliefs:-

“(a) Direct the Respondents No. 1 & 2 to produce the copy of the demarcation map/lay out of the area at Jalebi Chowk, Kalyanpuri, East Delhi.

(b) Direct the Respondents to restore the construction of Petitioner to its original position, if Petitioner's area is found within the defined/sanctioned limits as per lay out plan/map.

(c) Grant any further relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.”

2. On notice being issued, the respondent-MCD has placed on record its reply/affidavit. As per the reply, the respondent-MCD states that a joint encroachment removal drive was conducted at Kalyan Puri, Main Road, on 20.02.2023 by the General Branch and Maintenance/Works Department, Shahdara South Zone, with the help of police force of Kalyan Puri, Delhi.



3. As per the status report, the officials had taken action against whatever kind of temporary and permanent encroachment came to their notice during the drive and the same was removed with the help of the JCB.

Paragraph nos.3 and 4 of the affidavit reads as under:-

“3. That the Petitioner has claimed that selective action was taken by the officials of MCD on 20.02.2023 and no notice was served before taking demolition action. As regards this, it is relevant to mention here that perusal of available records show that a Joint Encroachment Removal Drive was conducted at Kalyan Puri Main Road on 20.02.2023 by General Branch and Maintenance/Works Department, Shahdara South Zone with the help of Police Force of Kalyan Puri Police Station, Delhi. It has been reported by Sh. Garun Gautam, the then Licensing Inspector of the concerned area/ward in Action Taken Report (ATR) that whatever kind of temporary and permanent encroachment came to notice during drive the same was removed with the help of JCB (Copy of ATR duly signed by Licensing Inspector and Junior Engineer and some Photographs of the Drive are enclosed herewith for ready reference as Annexure-A).

4. That it has been informed by Sh. Vinay Parashar, Licensing Inspector currently working in General Branch of this zone who had also participated in the Encroachment Removal Drive under consideration that the said drive had to be concluded after removal of encroachment from Petitioner's Shop at Jalebi Chowk, 17/1, Kalyan Puri in the form of Canopy and Ramp protruding on Govt./Public Land as the Police Force present expressed their inability to carry on further due to their other official assignments.”

4. Learned counsel who appears for the petitioner, however, submits that if the respondent-MCD were to take any action, the petitioner ought to have been issued a show cause notice. According to him, even going by the stand taken by the respondent-MCD, there does not appear to be any show cause notice served on the petitioner.

5. Since the encroachment removal drive had taken place on 20.02.2023 and a part of the petitioner's premises had allegedly been removed, at this stage, the Court does not find it appropriate to keep this petition pending on



its Board. Notably, it is the respondent-MCD's stand that in some cases of illegal encroachment, no show cause notice is required to be issued to each and every individual.

6. If the petitioner has any grievance, he can agitate the same before the Civil Court seeking necessary compensation or any other appropriate relief. If the respondent-MCD intends to take any further action, the Court only observes that the same shall be done strictly in accordance with law.

5. With the aforesaid observations, at this stage, the instant petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J.

SEPTEMBER 3, 2024/KG