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

+ W.P.(C) 3094/2024

SH. PREM PAL

.....Petitioner

Through: Mr. R.R. Bag, Mr. Rajbeer, Mr.
Shailendra Kumar & Mr. Sujeet
Kumar, Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: Mr. Sanjeev Sabharwal, ASC for
NDMC with Ms. Ankita Sarangi,
ASC.

Mr. Mohit Bhardwaj, Advocate for
R-2.

Mr. Divij Soni, Advocate for
STF/DDA.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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25.09.2024

1. The respondent-New Delhi Municipal Council ["NDMC"], has filed its status report, in which it is stated that action, with regard to illegal encroachment in the footpath of public land in A.K. Roy Marg, has been taken in February 2024. The petitioner, however, has filed a reply stating that illegal encroachment is still in place.

2. The reply dated 21.09.2024 has apparently affirmed by a lawyer on behalf of the petitioner. The affidavit contains various factual averments, to which a lawyer obviously cannot depose as counsel. I am unable to understand how counsel has chosen to affirm an affidavit of such a nature, that too with general allegations of corruption against statutory authorities, which do not appear to be backed up by any specific instances. The deponent of the affidavit is present in Court, and candidly



states that the facts stated therein are not within his knowledge. At the request of Mr. R.R. Bag, learned counsel for the petitioner, and the deponent of the affidavit, the affidavit is deemed to be withdrawn.

3. Mr. Bag contends that illegal encroachment has re-occurred in the property.

4. Respondent No. 5 had also filed a separate writ petition [W.P.(C) 3374/2024], in which the Division Bench passed an order dated 11.03.2024 declining the relief to the writ petitioner therein, and recorded that the provisions of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, does not preclude the authorities from removing encroachment on public land, subject to the remedies available to the writ petitioner therein, under the Delhi Urban Shelter Improvement Board Act, 2010 or the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015.

5. Illegal encroachments require statutory authorities to take repeated and consistent action from time to time. However, I do not consider it necessary to keep the writ petition pending for this purpose. Instead, the present petition is disposed of, directing the respondent-NDMC to appoint a Nodal Officer, who can be contacted in the event encroachments resurface in the area in question, so that expeditious action can be taken. The name and telephone number of the Nodal Officer be communicated to Mr. Bag within two weeks from today.

6. Additionally, in terms of the judgement of this Court in *Nilabh Sharma v. Municipal Corporation of Delhi* [W.P. (C) 11400/2024 dated 20.08.2024], the petitioner is also at liberty to make a complaint to the Magistrate under Section 152 of Bhartiya Nagarik Suraksha Sanhita,



2023, if the occasion arises.

7. The writ petition stands disposed of in the aforesaid terms.

PRATEEK JALAN, J

SEPTEMBER 25, 2024/‘pv’/