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

+ **W.P.(C) 3581/2024**

ANJALI GUPTA

.....Petitioner

Through: Mr. Rizwan, Mr. Azadar Husain and
Mr. Samarth Sharma, Advs.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Ajjay Arora and Mr. Kapil Dutta,
Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **12.09.2024**

1. In pursuance of the directions passed by this Court, the respondent-Corporation appears to have filed the Status Report. However, the same is not on record.
2. A copy of the Status Report has been handed over in Court today during the course of hearing. Let the same be also placed in the digital record of the Court.
3. Paragraph Nos. 2 to 7 of the Status Report reads as under:-

"2. That by way of the present writ petition, the petitioner is impugning the order dated 31/03/2024 passed by the quasi-judicial authority/Assistant Engineer, Keshave Puram Zone.

3. That while preparing the reply, it was noticed by the Answering Respondent that the orders under challenge suffer from legal/technical defect in the sense that it has been the uniform stand of the department before various courts, in different cases that the protection under the National Capital Territory of Delhi Laws (Special Provisions) Second Act,



2011, is available only till the maintenance of status-quo by the owners/occupiers of the property. The moment this status-quo is violated, all the portions of the property which exist without any Sanction/Regularisation Plan become unauthorised and beyond the protection of the moratorium.

That either the entire property is protected or else, the property is outside the protected umbrella of the moratorium. It cannot be that certain unauthorised parts are given the protection while the other unauthorised parts which have come up after the cut-off dates become liable to action.

The above being the uniform stand of MCD, it was noticed in the present case, while the protection was granted to some unauthorised parts, orders of demolition were passed only against those parts of the property which have been constructed subsequently, after the cut-off dates, i.e. after 07/02/2007.

4. *That the order being quasi-judicial in nature, there is no power of review vested in the quasi-judicial authority to review it's own order, but since the order is under challenge before this Hon'ble Court and the respondent wants to correct the stand taken in the order, it would be just and prudent if the fresh orders are passed by the Answering Respondent in this regard.*

5. *That it has been decided on legal advice, that the present order should be withdrawn and the Answering Respondent would issue a fresh Show-Cause Notice, Hearing and fresh Orders in accordance with law in this regard.*

6. *That Sealing proceedings under section 345A of the DMC Act 1957 were also initiated and show cause notice Bearing No. 83/EE(B-II)/KP7/2024 dated 12/02/24 was issued to the owner/occupiers and the hearing proceedings were concluded by the competent authority that is DC/KPZ and kept for orders. The sealing orders have been kept in abeyance as in the present writ Petition, the Petitioner is impugning the order dated 31/03/2023 passed by the quasi-judicial authority/Assistant Engineer, Keshav Puram Zone.*

7. *It is therefore most respectfully prayed that the stand of the Corporation be taken on record and the orders dated 31/03/2023 may kindly be granted to be withdrawn with liberty as per law and in accordance with the uniform stand of policies of MCD in this regard."*

4. It is thus seen that the respondent has already withdrawn the order



dated 31.03.2023 and has undertaken to proceed in accordance with law after affording opportunity of hearing to all concerned.

5. In view of the aforesaid, at this stage, no further directions are required to be passed. However, the respondent is directed to complete the entire exercise within a period of four months from today.

6. With the aforesaid observations, the petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 12, 2024

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