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

+ W.P.(C) 4030/2024 & CM APPL. 16424/2024

HAMENDER SHARMA

.....Petitioner

Through: Mr. Digvijay, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) AND ORS.Respondents

Through: Mr. Prashant Manchanda, ASC for
GNCTD with Mr. Haridas Medha
Dilip, Ms. Nancy Shah & Mr.
Vijay Shanker Tiwari, Advocates
for R-1.
Mr. Abhinav Sharma & Mr.
Mahender Shukla, Advocates for
MCD.
Mr. Jai Sahai Endlaw & Ms. Shruti
Kapur, Advocates for R-4 & 5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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25.09.2024

1. The petitioner has approached this Court complaining of alleged unauthorised construction in property [7070, Gali Paharwali, Pahari Dheeraj, Delhi-110006].

2. Municipal Corporation of Delhi ["MCD"] has filed a status report in which it is stated as follow:-

"3. That it is respectfully submitted that as per record upon noticing unauthorized construction in the property bearing no. 7070, Gali Paharwali Pahari Dheeraj, Delhi-110006 in the shape of deviation/excess coverage in violation of sanctioned building plan vide I.D. No.20002469 at ground floor and first floor, the same was booked under section 344(1) and 343 of the DMC Act vide file



no.228/81/UC/EE(B)-I/CSPZ/2023 dated 16.10.2023 and after following the due process of law demolition order dated 31.10.2023 has been passed by the quasi judicial authority directing the Mohd. Sarfaraz/owner/occupier/builder to demolish the unauthorized construction in the shape of deviation/excess coverage in violation of sanctioned building plan vide I.D. No.20002469 at ground floor, first floor and second floor within 06 days. A copy of demolition order dated 31.10.2023 is annexed herewith as **Annexure-A**. The owner/builder did not desist from raising unauthorized construction and raised further unauthorized construction in the shape deviation/excess coverage at third floor in violation of sanctioned building plan vide I.D. No.20002469 and as such the same was also booked under section 344(1) and 343 of the DMC Act vide file no. 167/81/B/UC/EE(B)-I/CSPZ/2024 dated 03.05.2024 and show cause notice dated 03.05.2024 has been issued to Mohd. Sarfaraz/owner/occupier/builder. Further action in the matter shall be taken after conclusion of proceedings initiated under section 344(1) and 343 of the DMC Act. A copy of show cause notice dated 03.05.2024 is annexed herewith as **Annexure-B**.

4. That it is respectfully submitted that in execution of demolition order dated 31.10.2023 action was planned for 06.03.2024 however action could not be taken due to non-availability of labour.

5. That it is respectfully submitted that apart from the above sealing action under section 345-A of the DMC Act was also initiated and after following the due process of law, sealing orders dated 19.03.2024 have been passed thereby directing sealing of unauthorized construction in the shape of ground floor, first floor, second floor and third floor alongwith projection on municipal land in the property. In execution of sealing orders dated 19.03.2024 action was planned for 30.04.2024 wherein the entire property has been sealed at 03 points. A copy of sealing order dated 19.03.2024 is annexed herewith as **Annexure-C**. Photographs showing sealing action on 30.04.2024 is annexed herewith as **Annexure-D**. A copy of watch and ward letter dated 02.05.2024 has also been issued to the SHO P.S. Sadar Bazar to keep strict watch and ward over the sealed premises so that seal is not tampered. A copy of watch and ward letter dated 02.05.2024 is annexed herewith as **Annexure-E**.

6. That it is respectfully submitted that apart from the above proceedings under section 338 of the DMC Act for revocation of sanctioned building plan vide I.D. No.20002469 dated 27.03.2023 have also been initiated and a show cause notice dated 16.04.2024 has been issued to Mohd. Sarfaraz, Sh. Asif and Sh. Sanjeev Kumar, Architect. A copy of show cause notice dated 16.04.2024 is annexed herewith as **Annexure-F**.”



3. Mr. Jai Sahai Endlaw, learned counsel appearing for respondent Nos. 4 and 5, submits that the present petition has been actuated by ulterior motives and there is already civil litigation pending between the writ petitioner, the said respondents and their predecessor in interest, being respondent No. 3 herein. He further states that construction was carried by respondent No. 3/respondent Nos. 4 and 5 after obtaining a sanctioned plan but the sanction has also been revoked by MCD.
4. Be that as it may, the submissions of learned counsel for the parties show that the petitioner's grievance regarding unauthorised construction, is being addressed by the MCD. The petition is therefore disposed of, without prejudice to the rights and contentions to the owners/occupiers of the subject property to take their remedies in accordance with law, against any orders passed by MCD.
5. The rights and remedies of the parties in the civil suit are also reserved.
6. The petition, alongwith pending applications, stands disposed of.

PRATEEK JALAN, J

SEPTEMBER 25, 2024

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