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

+ **W.P.(C) 4036/2024 & CM APPL. 16485/2024**

SUKESH KUMAR GUPTA & ANR.

.....Petitioners

Through: Mr. Diwan Singh Chauhan and Mr.
Gagandeep Singh, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr.Nikhil Palli and Mr.A.S.Chauhan,
Advs for MCD.
Mr.Manish Sharma and Mr.Ninad
Dogra, Advs for applicant.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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11.09.2024

1. The petitioner in the instant writ petition has prayed for the following reliefs:-

"a) pass a writ of Mandamus or any other writ/directions thereby directing the respondents to stop the illegal and unauthorised construction being carried out on the roof of third floor and above in property bearing No. 4346, Gali No.4C, Ansari Road, Madan Mohan Steet, Darya Ganj, New Delhi, without any sanctioned plan/prior permission and in violation of the muster/zonal plan and to demolish the illegal and unauthorized construction raised by the new purchaser/builder on the roof of third floor and above in the said property in violation of building bye laws and without sanctioned plan as required under law, in the interest of justice.

b) call for the records of the respondent about the action taken by them;

c) pass any other order(s) as this Hon'ble court may deem fit and proper in the facts and circumstances of the case in favour of the petitioner and against the respondents."



2. The respondent-MCD earlier filed the Status Report, however, the Court directed it to file a fresh Status Report with respect to the allegations made in the instant writ petition.

3. Thereafter, on 14.08.2024, the respondent-MCD placed on record the further Status Report which reads as under:-

"3. That, answering respondent in the earlier filed status report/affidavit detailed out about the actions initiated/taken by the department concerning the unauthorized construction at fourth floor of the subject property. The contents of the same are not repeated herein for the sake of brevity.

4. That, it is submitted that pursuant to the demolition/ sealing order already stand passed, the Building Department-I, Central Zone, MCD has taken the following further action:-

S.No.	Date of Action	Action Taken
1.	10.08.2024	<i>During the course of action, upon availability of police force, 03 number of RCC panels have been demolished and reinforcement was cut with the help of gas cutter. After demolition, fourth floor of the property has been resealed at 01 point.</i>

*Photographs showing the action as taken by the respondent/ MCD on 10.08.2024 are annexed herewith as **Annexure: A.***

*5. That pursuant to aforesaid action dated 10.08.2024. a letter bearing No. D/566/ AE(B)- IV /CNZ/2024 dated 12.08.2024 has been sent to the SHO, PS Daryaganj with the request to direct the concerned beat staff to keep strict vigil over this property, so that Owner/Builder may not be able to restore the demolished portion/ tamper with the seals affixed by the department. Copy of watch & ward letter dated 12.08/2024 is annexed herewith as **Annexure: B***

6. That, it is most respectfully, submitted that during the actions on 06.04.2024, 06.05.2024 and 10.08.2024, answering respondent/ MCD has demolished & cut down 08 number of RCC roof panels and has sealed the entire fourth floor of the property thereby rendering the premises uninhabitable. At present, fourth floor of the property is lying demolished and sealed."

4. It is thus seen that on 10.08.2024, the respondent-MCD took part demolition action while demolishing three RCC panels and cutting certain



columns with the help of gas cutter.

5. According to the respondent-MCD, after demolition, fourth floor of the property has been re-sealed at one point. The respondent-MCD also issued notice to the concerned SHO to ensure that the demolished portion of the property is not restored or reconstructed.

6. The respondent-MCD is directed to abide by its Status Report placed on record. It is also directed to ensure that if any further action is required to be taken, the same shall be taken to its logical end.

7. Learned counsel appearing on behalf of the petitioners, however, submits that the respondent-MCD has not taken complete action and according to the petitioners, the construction over the fourth floor has not been demolished. He asserts that even that has also been unauthorisedly constructed.

8. The Court, at this stage, takes note of the directions passed in W.P.(C) 4941/2024 dated 04.09.2024, wherein, at the instance of other occupier of one floor of the same property, the petitioners therein, were relegated to pursue the remedy of Special Task Force (STF).

9. The Court, in the instant case, leaves it open for the petitioners to approach the Special Task Force (STF) in case they feel that their grievance is not fully mitigated. If the petitioners do so, let their grievance be dealt with in accordance with law.

10. With the aforesaid observation, the instant writ petition along with pending application stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J
SEPTEMBER 11, 2024/MJ