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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4055/2024, CM APPL. 16540/2024**

NARENDER SACHDEVA

.....Petitioner

Through: Mr. Neeraj Kr. Mishra, Advocate.

versus

**MUNICIPAL CORPORATION OF DELHI
& ORS.**

.....Respondent

Through: Ms. Khushboo Nahar, ASC, MCD, for
R-1.

Mr. Anupam Arivastava, ASC
(GNCTD), Ms. Priya Jha, Mr.
Abhishek, Mr. Deepak Jain,
Advocates for R-2.

Mr. N. K. Kukreja, Advocate for R-4.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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31.07.2024

1. This petition has been filed seeking following reliefs:-

“(A) Issue a writ of mandamus or any other appropriate writ(s) or order(s) or direction(s) to respondents to comply the order dated 13.09.2019 passed in W.P (C) No. 5306 of 2018 and take necessary action for removal of encroachment based upon the demarcation report and map.

(B) Issue a writ of mandamus or any other appropriate writ(s) or order(s) or direction(s) to respondents to remove the entire encroachment/ illegal construction at property no. 77/6 lane no. 2, Krishna Nagar, Safdarjung Enclave, New Delhi pertains to Kh. no. 31,32 and 24 of Village Humayunpur, New Delhi as per demarcation map filed in W.P.(C) No. 5306 of 2018.

(C) Issue a writ of mandamus or any other appropriate writ(s) or order(s) or direction(s) to respondents to take necessary action on the complains dated 15.12.2023, 23.01.2024, 24.01.2024, 21.02.2024 and



29.02.2024. filed by the Petitioner.”

2. On notice being issued, the respondent-MCD has placed on record its status report. Paragraph no.12 of the said report reads as under:-

“12. That on 16/04/2024 the area field staff of Building Department-1 of South Zone, MCD had inspected the aforesaid property and it was noted that after obtaining the Sanctioned Building Plan for addition/alteration, the construction of Basement, Stilt, Ground floor, First floor, Second floor and Third floor was complete and only the finishing work was found under progress.”

3. Learned counsel who appears for the petitioner strongly objects to the stand taken by the respondent-MCD and he submits that when the Court directed for taking certain action, the respondent-MCD appears to have granted the permission for building in question. He, therefore, submits that there are various flaws in the building permission as well as in the status report filed by the respondent-MCD.

4. Having considered the nature of the controversy and unequivocal stand taken by the respondent-MCD in its status report, the Court, under the facts of the present case, is not inclined to keep this writ petition pending and instead grants liberty to the petitioner to file a civil suit before the competent Court.

5. It be noted that the writ jurisdiction under Article 226 of the Constitution of India can be invoked to seek the implementation of already existing law, which a party seeks to apply for his or her benefit. The petitioner is unable to establish any such crystallized right in his favour which would warrant passing any direction against the respondent-MCD.

6. Evidently, the building in question is being constructed as per the sanctioned building plan. Unless the petitioner is able to establish that the sanctioned plan itself has been erroneously approved or the structure in



question is being erected in violation of the sanctioned plan, he may not be able to succeed in his cause. In any case, all those aspects cannot be possibly gone into in exercise of the writ jurisdiction. The petitioner has other alternate avenues to ventilate his grievance.

7. Since there is no established or indefeasible right of the petitioner in the present case, the instant petition stands dismissed with the aforesaid liberty.

PURUSHAINDRA KUMAR KAURAV, J

JULY 31, 2024/KG