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

+ **CONT.CAS(C) 489/2024 & CM APPL. 21031/2024**

SH. MUMTAZ SAIFI ANR.

..... Petitioners

Through: Mr. Neeraj Kumar Rathor, Adv.
M: 9306575129
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versus

MUNICIPAL CORPORATION OF DELHI AND OTHERS

..... Respondents

Through: Mr. Shashi Pratap Singh, Advocate
for STF
M: 9560536975
Email: shashipratapadv@gmail.com
Mr. Divyam Nandrajog, Panel
Counsel, GNCTD with Ms. Surbhi
Soni, Advocate for R-4
SI Jaivind Kumar PS Jamia Nagar
Mob: 9315199981
Email:
jaivindkasana94650@gmail.com
Mr. Ashutosh Gupta, ASC for MCD
Mr. Shekhar Dasi and Mr. Mohd.
Talha and Mr. Deepesh, Advocates
for Intervenor.
Mob: 9718826767

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
08.04.2024

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CM APPL. 21031/2024

1. The present application has been filed on behalf of Mr. Mohd. Rafi under Section 151 Code of Civil Procedure, 1908 (“CPC”) for direction to respondent no. 1-Municipal Corporation of Delhi (“MCD”) to supply the demolition order and sealing order with respect to the property, so that the applicant can pursue his remedies as per law.
2. Learned counsel appearing for the applicant submits that though the demolition order has been passed by the MCD with respect to property bearing no. S-10/D-19, land measuring 100 Sq. Yards falling in Khasra No. 427/260, Gali No. 3, Jogabai Extension, Jamia Nagar, Delhi-110025; whereas, the action taken by the MCD is on some other property, viz. property bearing no. S-10/D-20, land measuring 400 Sq. Yards falling in Khasra No. 427/260/88, Jogabai Extension, Jamia Nagar, Delhi-110025. He, thus, submits that the demolition orders and other requisite documents be supplied to the applicant, in order to enable the applicant to pursue his legal remedies.
3. However, learned counsel appearing for the MCD disputes the aforesaid submission and submits that action has been taken on the correct address, i.e., property bearing no. S-10/D-19, land measuring 100 Sq. Yards falling in Khasra No. 427/260, Gali No. 3, Jogabai Extension, Jamia Nagar, Delhi-110025.
4. Be that as it may, since this Court cannot go into the disputed questions of facts in the present proceedings, it is directed that the requisite documents pertaining to the demolition/sealing order and other relevant documents be provided to the applicant on the E-mail, which has been mentioned in the present application.



5. With the aforesaid directions, the present application is disposed of.

CONT.CAS(C) 489/2024

6. The present petition has been filed alleging willful disobedience of the order dated 30th October, 2023 passed in *W.P.(C) No. 14050/2023*. By the aforesaid order, the Court had noted the submission on behalf of MCD that demolition action has already been initiated against the illegal and unauthorized construction in the property in question, i.e., S-10/D-19, land measuring 100 Sq. Yards falling in Khasra No. 427/260, Gali No. 3, Jogabai Extension, Jamia Nagar, Delhi-110025.

7. Attention of this Court has been drawn to the Action Taken Report (“ATR”) filed on behalf of respondent no. 3-Special Task Force (“STF”), wherein it has been categorically stated on behalf of STF that the relevant action has already been taken by the local authority, i.e., MCD.

8. Along with their ATR, the STF has attached copy of the Status Report of the ATR of the MCD dated 1st April, 2024, wherein the MCD has stated that requisite action against the illegal construction has been taken. The ATR of the MCD as filed by the STF along with its ATR, is reproduced as hereunder:

“xxx xxx xxx

1. The subject property has been identified by the department as Property opposite Al-Noor Apartment (S-10/D/10B), Jogabai Extension, Jamia Nagar, New Delhi.

2. The demolition proceedings against this property was initiated vide U/c file No. 400/B/UC/EE(B)-I/CNZ/2023 dated 05.09.2023 and 438/B/UC/EE(B)-I/CNZ/2023 dated 06.10.2023 for the unauthorized construction in the shape of Ground Floor to Fifth Floor. After following due process of law demolition order was passed.

3. A letter was sent to the concerned authorities of BSES & Delhi Jal Board for disconnection of electricity and water supply. A copy of the



said letter was also sent to the Sub-Registrar with the request not to register this property under Indian Registration Act, 1908.

4. In order to prevent further unauthorised construction at subject property, a letter u/s 344(2) of the DMC Act was sent to the SHO, PS Jamia Nagar with the request to get the unauthorised construction activity stopped at this property.

5. Demolition action against this property has been taken by the department 12.10.2023. During the action, 02 number of RCC roof panels were demolished each at third Floor, Fourth Floor and Fifth Floor.

6. Another action at this property has been taken on 19.03.2024, During the action, 10 number of RCC panels have been demolished (01 at roof of 4th floor, 06 at roof of 3rd floor and 03 at roof of 2nd floor), reinforcement have also been cut down with the help of gas cutter. After demolition action, property has been resealed at one point.

7. After demolition action, a letter was sent to the police authorities with the request to keep strict vigil over this property, so that Owner/ Builder may not be able to restore/ reconstruct the demolished portion of the property.

8. With regard to subject property, it is submitted that this department has taken all the measures in accordance with law and carried out its statutory obligation, which is evident from the demolition/cut down of total 52 panels of RCC roof of various floor of subject property besides sealing of property.

xxx xxx xxx”

9. Thus, by relying upon the aforesaid, it is jointly submitted by learned counsel appearing for the MCD as well as STF that requisite action has already been taken.

10. Mr. Divyam Nandrajog, learned counsel appearing for respondent no. 4, i.e., SHO Police Station Jamia Nagar supports the submissions made by learned counsels appearing for the STF and MCD. He hands over a copy of the Status Report dated 7th April, 2024 filed by SHO Police Station, Jamia Nagar, which is stated to have been filed yesterday, i.e., 7th April, 2024. The same is directed to be taken on record.



11. The Status Report dated 7th April, 2024 submitted by the SHO, Police Station Jamia Nagar reads as under:

“xxx xxx xxx

STATUS REPORT DATED 07.04.2024 ON BEHALF OF SHO, PS. JAMIA NAGAR

MOST RESPECTFULLY SHOWETH:

1. That the present petition is filed by the petitioner under Section 11 and 12 of the Contempt of Courts Act, 1971 alleging noncompliance of order dated 30.10.2023 passed by this Hon'ble Court in WP(C) 14050/2023.

2. That this Hon'ble court vide order dated 27.03.2024 was pleased to direct the answering respondent to file an Action Taken Report of action taken against the illegal and unauthorized construction in property bearing No. S-10/D-19, Land measuring 100 sq. yds. falling in Khasra No. 427/260, Gali No.3, Jogabai Extension, Jamia Nagar, Delhi-110025, ("**Subject property**").

3. That, on 26.09.2023, information was received by the answering respondent that construction was carried out at the subject property by one Rafiq Khan. That during the visit by the officers of answering respondent at the Subject Property, the construction was on halt and no labour was found at the site. Photographs of the Subject Property were taken by the police officials and duly forwarded to the control room of respondent no.1 along with the complaint which was registered as complaint no - 1903. The copy of the diary entry and complaint along with photographs is annexed as **Annexure - R4/1 (Colly)**.

4. That several demolition actions have been taken on the subject property by respondent no. 1 on the following dates - 05.10.2023, 12.10.2023, 05.12.2023, 14.02.2024 and 19.03.2024. The necessary police assistance was duly provided by the answering respondent to respondent no.1 during the demolition drive. The photographs of the demolition conducted by respondent no. 1 are annexed as **Annexure - R4/2 (Colly)**.

That the undersigned is duty bound to abide by any directions this Hon'ble Court is pleased to pass in the interests of justice.

xxx xxx xxx”



12. Considering the aforesaid stand taken by the respondents, it is manifest that the requisite action against the unauthorized construction existing in the property in question, has already been taken by the MCD.

13. The issue as raised by the applicant in *CM APPL. 21031/2024*, has already been adjudicated by this Court, by stating that disputed questions of facts cannot be decided by the Court in the present proceedings.

14. Thus, directions have already been issued to the MCD to supply the relevant documents to the applicant in *CM APPL. 21031/2024*.

15. In view of the aforesaid detailed discussion, wherein it is noted that action has already been taken by the MCD against the unauthorised construction existing in the property in question, no further orders are required to be passed in the present petition.

16. Accordingly the present petition is disposed of.

17. The next date of hearing, i.e., 15th July, 2024 is cancelled.

MINI PUSHKARNA, J

APRIL 8, 2024

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