



\$~31

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

+ **W.P.(C) 4941/2024**

**MOHD. SUHAIL & ANR.**

.....Petitioners

Through: **Mr. Ninad Dogra and Mr. Adya Rao,**  
Advts.

versus

**MUNICIPAL CORPORATION OF DELHI & ORS.**

.....Respondents

Through: **Mr. Ajjay Arora, Mr. Kapail Dutta**  
**and Mr. Vansh Luthra, Advts. for**  
**MCD**

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

**ORDER**

%

**04.09.2024**

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

*"1. Issue an appropriate writ in the nature mandamus or any other appropriate writ passing direction to the Respondent No.1, 2,3,4 and 5, to take action against the occupants of Basement, Ground and First floor of the Property Bearing NoA346/4C, Madan Mohan Street, Darya Ganj, New Delhi-I 10002, for using the residential premises as Commercial/ Industrial Activities.*

*2. Issue an appropriate writ in the" nature mandamus or any 'other appropriate writ passing direction to the Respondent No.1, 2, 3, 4 and 5, to take action against the encroachment on the lift shaft and converting the same into a room by occupants of Basement, Ground and First floor of the Property Bearing No.4346/4C, Madan Mohan Street, Darya Ganj, New Delhi-I l 10002"*

2. A status report has been earlier filed, however, the latest status report which is placed on record has been filed on 05.08.2024.

3. The latest status report states that various actions have been taken in



accordance with the provisions of the Delhi Municipal Corporation Act, 1957 for the unauthorised construction of the building in question

4. Learned counsel appearing for the respondent-Corporation submits that the respondent-Corporation is under an obligation to take the legal action to its logical end by ensuring further steps in accordance with law.

5. Paragraph Nos. 3 to 7 of the status report dated 05.08.2024 read as under:-

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

*4. That, regarding the future actions concerning the remaining 04 shops at Ground Floor, it is submitted that the concerned field officers of this answering respondent have inspected these shops on multiple occasions, observing that they were locked on each time. Nevertheless, this department is monitoring these shops closely, and appropriate measures will be taken upon detecting any misuse.*

*5. That, regarding the action initiated against the right side portion of the Second Floor (M/s Shree Enterprises, Printing Shop), it is hereby stated that, the site has been inspected by the concerned field staff on numerous occasions, each time premises has been found under residential use.*

*6. That, upon noticing that the petitioner has also alleged unauthorized construction at subject property, the answering respondent has initiated proceedings u/s 343/344 of the DMC Act for the unauthorized construction of Basement, Ground Floor to Third Floor vide U/c file No. 426/B/UC/EE(B)-I/CNZ/2024 dated 24.07.2024 and accordingly, a Show Cause Notice u/s 343(1) & 343 of the DMC Act bearing printed No. 16513 dated 24.07.2024 has been issued in the name of Owner/ Builder of the property.*

*7. That it is submitted that a matter regarding unauthorized construction at fourth floor of the subject property is pending hearing before this Hon'ble Court in W. P. (C) No. 4036/2024 titled as Suresh Kumar Gupta & Anr. Vs MCD and next date of hearing in the matter is now fixed for 16.08.2024. The answering respondent in the said matter, has already filed a report, detailing out the actions initiated/ taken by the department against the unauthorised construction of fourth floor and the same are not*



*being repeated for the sake of brevity.”*

6. Learned counsel appearing for the petitioner, however, raises a grievance that the respondent-Corporation appears to have demolished only Floor Nos.3 and 4, despite the entire building was found to be unauthorisedly constructed and misused. According to him, the respondent-Corporation should have taken action with respect to the remaining portion as well.

7. The respondent-Corporation is, therefore, directed to look into the aforesaid grievance and take necessary steps in accordance with law.

8. Since the respondent-Corporation is taking appropriate action, therefore, at this stage, the Court is not inclined to keep this petition pending, however, deems to appropriate to dispose of the same with the following direction:

i. Let the respondent-Corporation to carry out the demolition action strictly in accordance with law and to take it to its logical end within a period of three months from today.

9. The petitioner, however, shall be at liberty to approach the Special Task Force [“STF”] if the petitioner feels that the respondent-Corporation has failed to adhere to the aforesaid direction.

10. If the petitioner does so, his grievance shall be dealt with by the STF in accordance with law with due expedition.

11. The petition stands disposed of accordingly.

**PURUSHAINDR KUMAR KAURAV, J**

**SEPTEMBER 4, 2024/P**