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

+ **W.P.(C) 4952/2024 & CM APPL. 20286/2024**

DALIP MAHAJAN

.....Petitioner

Through: **Mr.Gaurav Mahajan, Adv.**

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: **Mr.Nikhil Palli, Adv for MCD.
Ms. Hetu Arora Sethi, ASC GNCTD,
Mr. Arjun Basra, Adv for R2 & 3
Mr.Ashim Vachher, SC with
Mr.Kunal Lakra, Adv for DDA.
Ms.Sangeeta Bharti, SC for DJB with
Ms.Vidushi Gupta, Adv for R-5.
Mr.Sharique Hussain, Adv for R-6.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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16.07.2024

1. The petitioner in the instant petition seeks for the following reliefs:-

" (a) Issue a writ in the nature of mandamus or any other writ as is deem fit by this Hon'ble Court directing the respondent No.7 and 12 not to carry out illegal construction of any nature in plot No. C-11, Shivaji Park West Punjabi Bagh, New Delhi-110026 and to adhere and make the property as per sanctioned building plan.

(b) directions against the respondent No.1 to 6 to take the immediate action and to stop the illegal and unauthorized construction and to demolish the same which is carried out on the above said property against the sanctioned site plan.

(c) directions against the respondent No.1 and 5 not to issue sewer connection to respondent No.7 to 12.



(d) directions against the respondent No.5 and 6 to not issue water and electricity connection in illegal building take the immediate action and to stop the illegal and unauthorized construction and to demolish the same which is carried out on the above said property against the sanctioned site plan.

(e) Pass such order and further orders as may be deemed fit and proper in the facts and circumstances of this petition in favor of the petitioner and against the respondent."

2. This Court vide order dated 05.04.2024 has directed as under:-

"W.P.(C) 4952/2024 and CM APPL.20286/2024 (Stay)"

1. The present petition raises a grievance as regards alleged unauthorized construction in Plot No.C-11, Shivaji Park, West Punjabi Bagh, New Delhi-110026.

2. Learned counsel, as aforesaid, appears and accepts notice on behalf of respondent nos.1 to 3, 5 and 6.

3. Issue notice to the respondent nos.7 and 8, on necessary steps being taken by the petitioner, through all permissible modes, including electronically. Dasti in addition.

4. Learned counsel for respondent no.4 i.e. the Chairman of the Special Task Force, appointed by the Supreme Court vide orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [M.C. Mehta v. Union of India & Ors.] informs that the property in question has been marked by the Special Task Force to the MCD for demolition/ requisite action.

5. Learned counsel for the MCD seeks some time to ascertain as to the action taken/proposed to be taken in respect of the property in question.

6. Let a status report in this regard be filed by the MCD within a period of four weeks.

7. The other respondents [except respondent no. 4] are also at liberty to file counter-affidavit before the next date of hearing.



8. The MCD is directed to inspect the property expeditiously; in case any unauthorized construction is ongoing, the MCD is directed to forthwith take steps to bring the same to an immediate halt.

9. List on 14.05.2024."

3. The respondent-MCD has placed on record the Status Report and in paragraph nos.4 to 13, it has taken the following stand:-

"4. That as per record maintained by the Building Department-I, West Zone/MCD, the property bearing C-11, (Back Side) Shivaji Park, New Delhi was booked under Section 343 & 344 of the DMC Act vide file No. EE(B)-I/WZ/UC/2023/157 dated 29.05.2023 for unauthorized construction in the shape of laying of foundation and column erection without having any sanction building plan. Simultaneously, a show cause notice under Sections 344(1) & 343 of the DMC Act, was issued to Owner/Builder on 29.05.2023.

5. That moreover, a work stop notice u/s 344 (2) of the DMC Act vide was issued to concerned SHO Police Punjabi Bagh, New Delhi No. D-192/EE(B)-I/WZ/2023/AE(B) dated 31.05.2023 a request that the aforesaid unauthorized construction activity be stopped by the Police immediately and workmen present the premises be removed and the construction material including the tools, machinery etc involved in the execution of may be seized forthwith, so that no further unauthorized construction can be carried out at the site during holidays & odd hours also. Copy of the work stop notice dated 31.05.2023 is annexed herewith as Annexure-'A'.

6. That no reply to the said show cause notice dated 29.05.2023 was received from the owner/builder within stipulated period. Consequently, a demolition order under section 343 of the DMC Act was passed on 09.06.2023.

7. That further in order to execute the above said demolition order a demolition action program was fixed by the department for 01.09.2023 but demolition action could not be taken on that day due to non availability of police force from P .S. Punjabi Bagh, New Delhi.

8. That it is further to mention that the above mentioned property was again booked under Section 343 & 344 of the DMC Act vide file No. EE(B)-I/WZ/UC/2024/132 dated 02.04.2024 for unauthorized construction in the shape of stilt to second floor with raising of



wall/column at third floor in half portion and stilt floor with raising of wall/column at ground floor in remaining portion in continuation of previous booking dated 29.05.2023. Simultaneously, a show cause notice under Sections 344 (1) & 343 of the DMC Act, was issued to Owner/Builder on 02.04.2024. Copy of the show cause notice dated 02.04.2024 is annexed herewith as Annexure-'B'.

9. That again a work stop notice u/s 344 (2) of the DMC Act was issued to concerned SHO PS Punjabi Bagh, New Delhi on 04.04.2024 with a request that the aforesaid unauthorized construction activity be stopped by the Police Immediately and workmen present in the premises be removed and the construction material including the tools, machinery etc involved in the execution of the work may be seized forthwith, so that no further unauthorized construction can be carried out at the site during holidays & odd hours also. Copy of the work stop notice dated 04.04.2024 is annexed herewith as Annexure-'C'.

10. That again no reply to show cause notice dated 02.04.2024 was received department within stipulated period. Consequently, demolition order under section 343 of the DMC Act was passed on 12.04.2024.

11. That, further letters to DJB, BSES and Sub-Registrar for disconnection of water supply, electricity and not to register the property for sale and purchase respectively have also been sent vide this office letter No. D-156/EE(Bldg.)-I/WZ/2024/AE(B) dated 10.05.2024. Copy of the letter dated 10.05.2024 is annexed herewith as Annexure-'D'.

12. That it is further submitted, that apart from passing of demolition a sealing action has also been initiated by the department and a show cause notice under section 345A of the DMC Act has also been issued to the owner/ occupier vide dated 10.05.2024. Copy of the sealing show cause notice dated 10.05.2024 is annexed herewith as Annexure-'E'.

13. That further action will be taken in due course of time as per provisions of the DMC Act and as per law."

4. Learned counsel for the respondent-MCD, however, submits that after sealing show cause notice dated 10.05.2024 was issued, further steps have also been taken.



5. He, therefore, submits that necessary steps for demolition shall also be taken by the respondent-MCD.
6. In view of the aforesaid, the Court does not find it necessary to keep the instant petition pending and instead directs the respondent-MCD to take the issue of unauthorised constructions to its logical end.
7. The petitioner is at liberty to come back to this Court, in case, the respondent-MCD fails to adhere to the stand taken in its Status Report.
8. Consequently, the instant petition along with pending application stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

JULY 16, 2024/MJ