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

+ **W.P.(C) 5163/2024**

MUKESH PHUTELA & ORS.

..... Petitioners

Through: Mr. Rajesh Kaushik, Adv. alongwith
Mr. Sunil Sirohi, Mr. Prashant Sagar,
Mr. Vikas kaushik, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ANR.... Respondents

Through: Ms. Sunieta Ojha, SC for MCD
alongwith Ms. Vasudha Priyansha,
Adv. for MCD.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

09.04.2024

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1. The present petition has been filed by the petitioners seeking that the property bearing No.E-16/644, Bapa Nagar Tank Road, Karol Bagh, New Delhi be de-sealed and that the petitioners be allowed to carry out construction at the said property as per the sanctioned building plan dated 21.11.2023.
2. Learned counsel for the petitioners draws attention to an order dated 10.11.2023, whereby, the previous writ petition filed by the petitioners was disposed of with the following directions :-

"1. By way of this petition under Article 226 of the Constitution of India, the petitioners seek de-sealing of the property bearing No. E-16/644, Bapa Nagar Tank Road, Karol Bagh, New Delhi ["the subject property"]

2. It is stated in the writ petition that the subject property was sealed in the year 2017 on account of unauthorised construction. The petitioners have not challenged the sealing order either before this Court or in



appropriately constituted proceedings before the Appellate Tribunal for the Municipal Corporation of Delhi ["MCD"].

3. Mr. Rajesh Kaushik, learned counsel for the petitioners, submits that the petitioners and the other co-owners of the subject property would like to demolish the entire building and build afresh in accordance with a building plan sanctioned by MCD. If so, the petitioners have to apply for sanction, both for the demolition and the construction, with the MCD.

4. The petitioners are at liberty to do so, which MCD may consider in accordance with law.

5. The writ petition is disposed of with these observations.”

3. Subsequently, a communication dated 29.12.2023 was addressed by the respondents/MCD to the petitioners, whereby, the property in question was de-sealed to enable the petitioners to demolish the same. The said letter/order dated 29.12.2023 reads as under :-

*“MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE ASSISTANT ENGINEER (BUILDING)
KAROL BAGH ZONE*

*“Nigam Bhawan”
D. B. Gupta Road, Karol Bagh,
New Delhi – 110005.*

No. D/AE(B)/KBZ/2023/2031

Dated 29/12/2023

*To,
Sh. Mukesh Phutela, Sh. Amit Goel & Sh. Deepak Arora
Plot No. 16-E/644, Julhan Basti,
Tank, Road, Karol Bagh,
New Delhi-110005.*

Subject:- Regarding Temporary De-sealing of Property No. 16-E/644, Julhan Basti, Tank Road, Karol Bagh, Delhi-110005.

Sir/Madam,

The competent authority has allowed the temporary de-sealing of subject mentioned premises, for a period of 30 days for demolishing of unauthorized construction in subject mentioned property and re-seal thereafter.

Therefore, the above mentioned premises will be temporarily de-



sealed on 02.01.2023 (Tuesday) and will be re-sealed after 30 days i.e. 01.02.2024 (Thursday). You are requested to be present at site on 02.01.2024 and 01.02.2024 at the time of de-sealing and re-sealing of the premises subject to the condition that no third party interest shall be created in the meantime and no other unauthorized construction will be done. The demolition shall be carried out considering/following all the guidelines of the GRAP orders from the CAQM.

*Assistant Engineer (Building)
Karol Bagh”*

4. Learned counsel for the petitioners submits that the entire demolition could not be carried out within the period of 30 days during which the property was de-sealed, vide the aforesaid order dated 29.12.2023.
5. The petitioners, accordingly, submitted a representation to the MCD dated 07.02.2024 seeking de-sealing of the property for the purpose of re-construction. The said representation is stated to be under consideration.
6. Learned counsel for the respondents/MCD, who appears on advance notice, submits and undertakes, on instructions, that the aforesaid representation dated 07.02.2024 shall be decided, within a period of one week from today and an appropriate decision shall be taken as regards the request of the petitioners for de-sealing of the property in question for the purpose of demolishing the existing building thereon and to enable the petitioners to re-construct the said property.
7. Considering the aforesaid, no further order/s are required to be passed in the present petition; the same is accordingly disposed of. Needless to say, if the petitioners are aggrieved with the outcome of the aforesaid exercise, they shall be at liberty to avail appropriate legal remedies, as may be available under law.

SACHIN DATTA, J

APRIL 9, 2024/r