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

+ **W.P.(C) 5833/2024 & CM APPL. 33165/2024**

PAWAN VATS

..... Petitioner

Through: Mr. Gaurav Pandey, Advocate
versus

MUNICIPAL CORPORATION OF DELHI & ANR.

..... Respondents

Through: Mr. Ajjay Aroraa, Mr. Kapil Dutta,
Mr. Vansh Luthra, Ms. Simran Arora,
Advocates for MCD (M:9811160827)
Ms. Chand Chopra, Ms. Yogya
Sharma, Advocates for R-2/DDA
(M:9915907494)
Mr. Gautam Narayan, Mr. Ayush
Gupta, Advocate for R-3
(M:9818402326)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
29.05.2024

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W.P.(C) 5833/2024 & CM APPL. 33165/2024

1. *CM APPL. 33165/2024* has been filed on behalf of respondent no.3 for directions to the respondent no.1-Municipal Corporation of Delhi ("MCD"), not to take any action in view of the order dated 06th May, 2024, passed in *W.P.(C) 6455/2024*.
2. Learned counsel for respondent no.3 has drawn the attention of this Court to the order dated 02nd May, 2024, passed in the present proceedings, wherein, it had been recorded as follows:



“xxx xxx xxx

3. *Learned counsel appearing for respondent no.3 submits that the present writ petition has been filed on the basis of wrong and misleading facts. He further submits that the property of respondent no.3 does not exist on any public land and is a private property, which has been duly purchased by way of a registered sale deed.*

4. *Learned counsel appearing for respondent no.3 further submits that he has filed an application for regularization of the construction in his property.*

5. *Per contra, learned Additional Standing Counsel appearing for respondent no.1-MCD submits that an inspection was done by the department officials and the property in question was duly booked vide Show Cause Notice dated 18th April, 2024, which included not only Khasra No. 33/7/1 but also Khasra No. 33/7/2, Palam Village, New Delhi.*

6. *Learned counsel has further handed over copy of the Show Cause Notices dated 18th April, 2024 and 24th May, 2023, which have been issued to the respondent no. 3, wherein Khasra No. 33/7/1 and 33/7/2, Palam Village, New Delhi have been mentioned. Thus, she submits that there is no ambiguity as far as the identity of the property is concerned and that the property has been duly booked for unauthorized construction after inspection by the department officials.*

7. *Learned counsel appearing for the respondent no. 1-MCD further submits that the application of the respondent no.3 for regularization, has already been rejected vide order dated 01st May, 2024.*

8. *In rejoinder, learned counsel appearing for respondent no.3 submits that copy of the aforesaid Show Cause Notices dated 24th May, 2023 and 18th April, 2024, have never been received by the respondent no.3. He further submits that rejection order dated 01st May, 2024, thereby rejecting the regularization application of the respondent no. 3, has also not been received by respondent no.3.*

xxx xxx xxx

12. *It is clarified that this Court has not granted any interim protection in favour of respondent no.3, in view of the submissions made by learned counsel appearing for the MCD and in view of order dated 25th April, 2024 passed by this Court.*



13. However, respondent no.3, who submits that he is the owner of the property in question, is at liberty to seek his remedies, in accordance with law.

xxx xxx xxx”

3. Perusal of the aforesaid order shows that it was only during the course of the hearing on 02nd May, 2024, that it transpired that application for regularization filed on behalf of respondent no.3, had already been rejected by the MCD.

4. Learned counsel for respondent no.3 submits that against the rejection order dated 01st May, 2024, a writ petition being W.P.(C) 6455/2024 was filed by the respondent no.3.

5. Learned counsel draws the attention of this Court to the order dated 06th May, 2024 passed in the petition filed by respondent no.3 herein, i.e., W.P.(C) 6455/2024, which reads as under:

“xxx xxx xxx

1. The present petition assails a notice/communication dated 01.05.2024, whereby, the application filed by the petitioner seeking regularization of the construction in property bearing Plot No.1169, Khasra No.33/7/2, Palam, Delhi-1100045, has been rejected. The said notice reads as under:-

“No. EE(B)NGZ/24/D-32

Dated: 01/05/2024

*Sh. Mahesh Kumar Mittal,
Plot out of Khasra No. 33/7/2,
Mohalla Badiyal, Palam Village,
New Delhi*

*Sub:- Regarding regularization of property Kh. No.
33/7/2, Mohalla Badiyal, Palam Village, New Delhi.*

Sir/Madam,

*With reference to the above cited subject, which
was received in this office through Speed Post vide Dy.*



No.05/Reg. dated 01.05.2024. In this context, it is informed that you have not deposited the processing fee for regularization of the above said property. Hence, the said case of regularization is not considered and hereby rejected.

*Asstt. Engineer (Bldg.)
Najafgarh Zone*

Copy to:

- 1 EE(B)NGZ for kind information please.*
- 2 Sh. Mandeep Saini (Ph. No.9999475483) RZ
F-22, Mahavir Enclave*
- 3 Office Copy*

*Sd/-
Asstt. Engineer (Bldg.)
Najafgarh Zone”*

2. Learned senior counsel for the petitioner submits that the order has been passed without any advance intimation to the petitioner. He submits that the petitioner has always been agreeable to deposit the requisite charges/processing fee in respect of the regularization application submitted by him.

3. It also transpires during the course of hearing that substantial demolition action has already been taken qua the property in question and the remaining portion of the property in question is presently sealed.

4. After some hearing, learned senior counsel for the petitioner and learned counsel for the respondent/MCD are in agreement that upon a fresh application seeking regularization being submitted by the petitioner along with all necessary charges and documentation, the same shall be duly considered, processed and disposed of by the respondent/MCD, within a period of eight (08) weeks from the date of submission thereof. It is directed accordingly.

5. Learned senior counsel for the petitioner submits that a fresh application seeking regularisation shall be submitted within a period of one week from today, along with all documentation and processing charges etc., as may be applicable. The said statement is taken on record.



6. Let the respondent/MCD afford an opportunity of hearing to the petitioner prior to the disposal of the regularisation application. It is further directed that till the conclusion of the aforesaid exercise, status quo shall be maintained with regard to the property in question.

7. The present petition, along with pending application/s, is disposed of in the above terms.

8. Let a compliance affidavit in this regard be filed within a period of ten (10) weeks from today.

9. Needless to say, if the petitioner is aggrieved by the outcome of the aforesaid exercise, he shall be entitled to avail appropriate legal remedies, in accordance with law.”

(Emphasis Supplied)

6. Perusal of the aforesaid order, clearly shows that earlier regularization application filed on behalf of the respondent no.3 herein has been rejected by the MCD on 01st May, 2024 itself, solely on the ground that respondent no.3 had not deposited the process fees for regularization. Subsequently, respondent no.3 had also filed a fresh regularization application before the MCD, which is now pending consideration.

7. This Court also records that vide aforesaid order dated 06th May, 2024, a Coordinate Bench of this Court has already directed that MCD shall afford an opportunity of hearing to the respondents herein at the time of considering his regularization application. Further, there is categorical direction that till conclusion of the exercise of considering the regularization application of respondent no.3, *status quo* shall be maintained with regard to the property in question.

8. Accordingly, it is manifest that no further orders for taking any action against the property in question can be issued by this Court in the present



proceedings, when there are already *status quo* orders pending with regard to the property in question, as passed by Coordinate Bench of this Court.

9. Accordingly, the present petition is disposed of, along with pending applications. However, liberty is granted to the petitioner to revive the present petition, subject to outcome of regularization application filed by respondent no.3 herein.

10. The next date of hearing of 31st July, 2024, stands cancelled.

MINI PUSHKARNA, J

MAY 29, 2024

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