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

+ **W.P.(C) 9148/2022**

S. INDER PRATAP SINGH

.....Petitioner

Through: Mr. Rajesh Yadav, Sr. Adv. with Mr.
Ruchira V. Arora and Mr. Dhananjay
Mehlawat, Advs.

Versus

NEW DELHI MUNICIPAL COUNCIL & ANR.

.....Respondents

Through: Mr. Raghvinder Varma, ASC for R-
1 with Mr. Abhishek Singh and Ms.
Alisha Sharma, Advs.
Mr. Anis Ahmed, Adv. for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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11.09.2024

1. The petitioner in the instant writ petition seeks for directions to respondent no.1 to take immediate action for removal of alleged illegal and unauthorised construction in the property of respondent no.2.
2. During the pendency of the instant writ petition, as per the order dated 08.07.2024, respondent no.3 has been impleaded.
3. The amended memo of parties has been placed on record. The respondent nos. 2 and 3 are being represented by learned counsel.
4. The respondent-NDMC appears to have filed the Status Report/Compliance Report with respect to the premises in question, however, the same is not on record. Let the same be placed in the digital



record of the Court.

5. A copy of the compliance report dated 10.09.2024 has been handed over across the board in Court today. The said report reads as under:-

*"1. An inspection of the subject premise has been carried out on 05.09.2024. During inspection no ongoing construction activity found at the subject premise. (Photographs annexed as **Annexure-A**).*

2. During inspection it has been observed that, the existing Balconies of subject premises are projected in the passage of the adjoining property at second floor level and also the windows / sunshade of rear/ side wall are old /existing projected towards other's property, which are in violation under provision clause 2.0.1(d) of UBBL-2016.

*In view of above, before issuance of notice, it is required to ascertain the factual position of unauthorized construction/violation in respect of completion/sanctioned plan. Therefore, a requisition of for providing sanctioned /completion plan in respect of subject premise of Raza Masjid (Adjoining property no. 124/4), Janpath Lane, New Delhi, has been sent to the Architect Department, NDMC vide no. D/1080/EE(E-BR)/24 dated 06-09-2024 (Copy annexed as **Annexure-B**) to provide sanctioned /completion plan at the earliest.*

*3. Regarding dangerous conditions of the building of respondent no.2, an u. o. note vide no. D/1082/EE(E-BR)/2024 dated 06-09-2024,(Copy annexed as **Annexure-C**) has been sent to the Unsafe Structure Section of the Architect Department, NDMC for checking of structure stability, safety and for taking further necessary action at their end.*

*4. Regarding commercial partially used of subject premise, an u. o. note vide no. 1081/EE(E-BR)/2024 dated 06-09-2024, (Copy annexed as **Annexure-D**)has been sent to Misuse Section of the Architect Department, NDMC for taking necessary action at their end."*

6. A perusal of the status report would indicate that an inspection of the subject premises was carried out on 05.09.2024 and during the inspection, no ongoing construction activity has been noticed. It was, however, observed that the existing balconies of the subject premises are projecting in the passage of the adjoining property at the second floor level. The windows/sunshade of rear/side wall is old/existing and are projecting



towards other's property. As per the Status Report, the same is violative of the provisions of Unified Building Bye Laws for Delhi 2016 [UBBL-2016], specifically Clause 2.0.1(d) therein.

7. The NDMC, therefore, appears to have entered into correspondence with other concerned departments to ascertain various facts, including the sanction/completion plan of the alleged objectionable structure, and also the structural stability/safety certificate etc. The NDMC has also placed on record certain photographs of the alleged objectionable structure.

8. Going by the stand taken by the NDMC, the Court, at this stage, is of the considered opinion that the NDMC has to take the issue to its logical end. In view of the photographs and the observations recorded during the inspection being taken into consideration, it is seen that immediate measures have to be undertaken by the respondent-NDMC.

9. Let the same be done within a period of four months from today.

10. With respect to the objections being raised by learned counsel for respondent nos. 2 and 3, they are granted liberty to agitate their grievance before the respondent-NDMC.

11. According to the learned counsel for respondent nos. 2 and 3, photographs along with the inspection which has been allegedly carried out at the subject property pertain to a different construction and the said photographs are not of the property of respondent nos. 2 and 3. Assuming the contentions of respondent nos. 2 and 3 to be true, then their rights are unlikely to be adversely affected in event the respondent-NDMC takes any action in pursuance to the compliance report. In any event, all those aspects can be considered by the NDMC.

12. Accordingly, the Court deems it appropriate to dispose of the instant



writ petition with the following directions:-

(i) Respondent nos. 2 and 3 shall be at liberty to make their representation before the NDMC. Depending upon the same, let the necessary action, as has been indicated by the NDMC, in terms of Status Report/Compliance Report dated 10.09.2024, be taken to its logical end. Entire exercise shall be completed within a period of four months from today.

(iii) Upon the NMDC completing the necessary action as indicated in the Status Report/Compliance Report dated 10.09.2024, if the petitioner is of the opinion that his grievance is not completely mitigated, the petitioner shall be at liberty to approach the Special Task Force [STF], which has been constituted pursuant to the directions passed by the Supreme Court in the case of ***M.C. Mehta v. Union of India.***

13. The NDMC is directed to inform the petitioner regarding the final outcome of the exercise which is to be carried out.

14. With aforesaid observations, the instant writ petition stands disposed of. All rights and contentions are left open.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 11, 2024

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