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

+ **W.P.(C) 5941/2024**

NIPUN CHHABRA

..... Petitioner

Through: Mr. Raj Shekhar Rao, Sr. Adv. along
with Ms. Poornima Maheshwari, Mr.
Kartik Seth, Ms. Mehrunissa Anand,
Ms. Shriya Gilhotra and Mr.
Prashanth Dixit, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ANR.

..... Respondents

Through: Mr. Ashutosh Gupta and Mr. Anil Kr.
Gupta, Advs. for MCD.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

29.04.2024

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CM APPL.24704/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 5941/2024 and CM APPL.24703/2024 (Stay)

1. The present petition has been filed by the petitioner seeking quashing of Show Cause Notice issued under Section 345 of DMC Act, 1957, Vacation Notice issued under Section 349 of DMC Act, 1957, dated 24.04.2024, as well as the demolition order dated 22.02.2024, passed under Section 343 (1) / Section 349 read with Section 346 of the DMC Act, 1957.
2. During the course of hearing it transpires that the petitioner has already moved to the ATMCD, seeking the above reliefs. However, the

W.P.(C) 5941/2024

Page 1 of 3



petitioner is stated to have been constrained to file the present petition inasmuch as on the last date of hearing before the ATMCD viz. 23.04.2024, the Presiding Officer was on leave and the matter was adjourned to 28.05.2024. Learned counsel for the petitioner submits that in view thereof, the petitioner was not able to pursue its request for interim relief on the previous date of hearing before the ATMCD. It is submitted that in the meantime, MCD is proceeding to take action qua the property in question *i.e.*, Farm No.01, 12 Petals, Samalkha Revenue Estate, Rajokari to Kapashera Road, Delhi (admeasuring 4 Bighas 18 Biswas bearing Khasra No. 30/25, MIN (3-13), 39/5/1/1 MIN (0-8), 5/1/2 MIN (0-17), Main Road, Samalkha Village, South West Delhi-110037. It is apprehended that the reliefs sought by the petitioner before the ATMCD shall become infructuous, if protective/injunctive orders are not passed.

3. It is submitted by the learned senior counsel for the petitioner that *vide* order dated 05.04.2024 passed in W.P.(C) 4963/2024, a Division Bench of this court has directed the MCD to *inter alia* file a status report with respect to the property in question in the present petition. He submits that the aforesaid matter is coming up before the Division Bench on 03.05.2024 and it is incumbent on the MCD to take requisite action.

4. This court is not inclined to entertain the present petition since the ATMCD is seized of the very relief which is sought by the petitioner in the present petition. However, in view of the urgency emphasized by learned senior counsel for the petitioner, the petitioner is at liberty to move an appropriate application seeking urgent interim relief before the ATMCD and mention the matter before the ATMCD on 30.04.2024.



5. At this stage, it transpires that the application filed by the petitioner before the ATMCD seeking urgent interim relief is listed for consideration at 02.00 PM today *i.e.*, on 29.04.2024. The petitioner is granted liberty to pursue the said application. The ATMCD shall consider the request of the petitioner in accordance with law and pass a suitable order as may be warranted, taking into account the facts and circumstances of the matter.
6. With the aforesaid directions, the present petition stands disposed of.
7. Learned counsel for MCD submits that the demolition action qua the property shall be scheduled for 30.04.2024 and 01.05.2024. The same shall necessarily be subject to order/s that may be passed by the ATMCD on the aforesaid application. It is made clear that this court has not expressed any opinion as regards the merits thereof.
8. Copy of this order be given *dasti* under the signatures of the court master.

SACHIN DATTA, J

APRIL 29, 2024/cl