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

\+ W.P.(C) 10831/2022 & CM APPL. 31461/2022

SMT KAVITA .....Petitioner

Through: Ms.Savita Rustogi and Mr.Mayank Routs, Advs.

versus

GOVT. OF NCT DELHI & ORS. .....Respondents

Through: Mr.Mohit Bhardwaj, Adv for R-1.
Mr.Nawal Kishore Jha, SC for MCD with Ms.Kalpana Jha, Adv.
Mr. Anuj Kumar Garg, Adv for R-3.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **02.09.2024**

1. As per the directions passed in order dated 12.09.2023, the concerned SDM is present in Court.

2. The instant writ petition is against respondent nos.1,2 and 3 seeking directions to stop the alleged unauthorised construction in front of Shop 6, Block E-2, 3rd 60 Feet Road, Molarband Extention, Badarpur,. New Delhi-110044.

3. The Court, *vide* order dated 12.09.2023, had directed as under:-

> *"1. By order dated 13.07.2023, in view of a lack of consensus between Municipal Corporation of Delhi ["MCD"] and the Government of NCT of Delhi ['GNCTD"] as to the responsibility for the area in question, representatives of both the authorities were directed to carry out a joint inspection and submit a report as to the petitioner's grievances.*
> *2. I am informed that a joint inspection has been carried out, but no report has been submitted. Neither of the learned counsel for the*

authorities is in a position to make submissions with regard to the result of the aforementioned inspection. .
3. Joint status report be filed within four weeks, failing which concerned Executive Engineer, MCD are directed to remain present in Court on the next date of hearing with the relevant records.
4. List on 11.01.2024."

4. The respondent-MCD , thereafter, placed on record the Status Report and in paragraph no.3, following stand has been taken:-

> *"That cause of litigation on the part of petitioner pertains to unauthorized construction/encroachment, which is stated to have been carried out by respondent No. 4 in front of the property bearing Shop No. 6, Block-E-2 3" 60 Feet Road, Molarband Extension, Badarpur, New Delhi. In terms of order dated 12/09/2023, subordinate official of deponent along -with officials from office of SDM(Sarita Vihar) carried out joint inspection of site on 31/07/2023. During joint inspection, status of land whereupon the alleged shop is existed could not be ascertained. It is submitted that Revenue Department of GNCTD is custodian of land record. Thus, onus is upon Revenue Department to draw conclusion in this regard. However, since alleged structure is unauthorized, the answering respondent has initiated demolition proceedings u/s 343/344 of the DMC Act vide File No. 269 /B/UC/EE(B)-II/CNZ/23 dated 16/10/2023 and issued show cause notice in the name of Shri Sanjay Kumar. Further action is under contemplation in accordance with provisions of DMC Act. Action will be planned as soon as demolition proceedings are concluded and order passed."*

4. It is thus seen that during inspection, the status of the land whereupon the alleged shop exists, could not be ascertained as per the respondent-MCD. As per the Status Report, the Revenue Department of GNCTD is custodian of the land record. The respondent-MCD, therefore, asserts that the onus lies upon the Revenue Department to draw a conclusion in that regard. The respondent-MCD, however, states that the necessary steps with respect to unauthorised structure have been initiated and show cause notice in the name of one *Mr. Sanjay Kumar* has been duly issued.

5. Learned counsel appearing for the respondent-MCD submits that the

further action shall take place in accordance with law. He also submits that the subject land appears to be a private land and there appears to be an unauthorised construction of a colony.

6. Learned counsel appearing on behalf of the respondent-GNCTD, however, submits that since the area in question has already been urbanised in the year 2019, therefore, if there is any unauthorised construction, the respondent-MCD is well within its jurisdiction to take necessary steps. He further undertakes that the Revenue authorities would render all necessary assistance.

7. Having considered the controversy involved in the instant writ petition, the Court is of the opinion that the grievance can be agitated before the Special Task Force (STF) which has been constituted in pursuance of the directions passed by the Supreme Court in W.P. (C) 4677/1985 titled as ***M.C. Mehta v. Union of India & Ors***.

7. The location of the shop/alleged construction etc are not clearly discernible. There appears to be various disputed facts which would require thorough examination.

9. The petitioner is directed to approach the concerned STF and in case, the petitioner does so, the grievance of the petitioner be dealt with in accordance with law.

10. Reserving all rights and contentions in favour of the parties, the instant writ petition along with pending application stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 2, 2024/MJ