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

+ W.P.(C) 6807/2024, CM APPL. 28320/2024, CM APPL. 28321/2024

MEETU JAIN Petitioner

Through: Mr. Lalit Gupta, Mr. Priyansh Jain,
Mr. Ankit Singh, Advs. alongwith
petitioner-in-person.

versus

MUNICIPAL CORPORATION OF DELHI Respondent

Through: Mr. Shivam Sachdeva, ASC for MCD

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

13.05.2024

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1. The present petition has been filed by the petitioner seeking that the MCD be directed to decide the regularization application submitted by the petitioner by way of a speaking order before giving effect to the demolition order qua the property of the petitioner.

2. The demolition order qua the property of the petitioner is stated to have been issued on 18.03.2024 which reads as under:-

“Whereas you Shri Ms. Meetu Jain S/o _____ R/o H. No. 133-C, Pocket I, Mayur Vihar, Phase I, Delhi have started/ completed/ carried out the unauthorized construction work, as given hereinunder, in Property No. H. No. 133-C, Pocket-I, Mayur Vihar, Phase-I, Delhi without obtaining necessary permission as required under Section 332 of the Delhi Municipal Corporation Act (DMC), 1957, or in contravention of sanction as granted under Section 336 of the Act.

Details of unauthorized construction:

Sanctioned Building Plan/Online ID No., if any Nil

S. No.	Floors	Details of Unauthorized Construction/Deviation from Sanctioned Building Plans
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1.	First	U/c in the shape of deviation/excess coverage against standard DDA Plan.
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Rough Sketch Plan of Site and Unauthorized Construction:

133-C Lat. 28.608131

Pkt-I Long. 77.297156 detailed orders attached

Whereas, a show cause notice was served upon you vide No. 7545 dated 13-02-2024 to stop the work and to submit your reply within 03 days, as to why orders of demolition as required under Section 343 of the Act should not be passed in respect of the unauthorized construction already carried out and the unauthorized construction, if any, carried out after the issue of this show cause notice. You were also given an opportunity to submit a formal application within 03 days for regularization of permissible/ compoundable construction after demolition of noncompoundable deviation.

And, Whereas, you have submitted your reply but the unauthorized construction has not been demolished. Moreover, any proposal for regularization has not been submitted within the stipulated period.

Therefore, you, are hereby, directed to demolish the unauthorized construction in Table-2 as mentioned and unauthorized construction, if any, carried out after the issue of the show cause notice within 06 days from the date of receipt of this order. You are also informed that in case you do not comply with the orders; Municipal Corporation of Delhi may be itself initiate action for demolition of above construction and expenditure so incurred for carrying out the demolition would be recovered from you as per provisions of DMC Act, 1957.

Whereas, unauthorized construction as mentioned in Table-1 in protected till the expiry of NCT of Delhi Laws (Special Provision) Act.”

3. The demolition order was pursuant to a show cause notice dated 13.02.2024, which *inter alia* states as under:-

“4. Simultaneously, you are also hereby given an opportunity to submit a formal application within 03 days for regularization of permissible/ compoundable/ construction after drawings, etc., as mandated under the Unified Building Bye-Laws-2016.”

4. The regularization application is stated to have been submitted by the



petitioner on 23.04.2024.

5. Learned counsel for the respondent submits that the present petition is not maintainable inasmuch as in case the petitioner has any grievance with regard to the demolition order passed qua the petitioner's property, the petitioner is at liberty to take appellate remedies before the ATMCD in this regard. It is submitted that the plea of the petitioner that the regularization application is required to be decided prior to the demolition of the property of the petitioner can also be taken before the ATMCD.

6. After some hearing, learned counsel for the respondent, on instructions from the concerned Assistant Engineer, submits that the MCD does not propose to carry out any demolition action in respect of the property of the petitioner prior to the disposal of the regularization application. The said statement is taken on record.

7. In view thereof, learned counsel for the petitioner does not wish to press the present petition ; the same is accordingly disposed of taking on record the aforesaid statement on behalf of MCD. Let the MCD also provide an opportunity of hearing to the petitioner before deciding the regularisation application.

8. In case the demolition action is proposed to be taken qua the petitioner's property, prior notice of at least 3 working days shall be given to the petitioner.

SACHIN DATTA, J

MAY 13, 2024/at