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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11047/2022 & CM APPLs. 32366/2022, 65459/2023,
18189/2024, 23229/2024 & 47148/2024
AJEET SINGHPetitioner

Through: Mr. Rahul Joshi, Adv.

versus

MUNICIPAL CORPORATION OF DELHI THROUGH ITS
COMMISSIONER & ORS.Respondents

Through: Mr. Ashutosh Gupta, ASC for MCD
with Mr. Abhinav Shokeen, Adv.
Mr. Amiet Andlax and Mr. Arun K.
Sharma, Advs. for R-2 to 4

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR
KAURAV

ORDER
16.08.2024

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1. The petitioner in the instant petition has prayed for the following
reliefs:-

*“a) To issue a Writ of Mandamus or any other another appropriate Writ,
Order or- Direction against the Respondent No.1 MCD for stopping the
unauthorized construction carried out by the Respondent nos. 2 to 4 in
respect of the ground floor of the abovementioned property without
ensuring the structural stability of the same; and/or*

*b) To direct the Respondent Nos. 2 to 4 to restore the above-mentioned
property to its original position;*

*c) To issue any other relief and further relief in the interest of justice which
this Hon'ble Court may deem fit and proper in the light of above facts and
circumstances.”*



2. On notice being issued and directions being passed, the respondent-MCD has placed on record its affidavit. In terms of paragraph Nos. 3 to 7, the following position has been taken by the MCD:-

“3. That the subject property i.e. Property Bearing No. 26 UA, Jawahar Nagar, Near Malka Ganj Chowk, Delhi has been jointly got inspected on 12.12.2022 by the concerned Asst. Engineer (B)-II, Keshav Puram Zone, MCD alongwith Jr. Engineer (M)-II and Asst. Engineer (M)-II, Keshav Puram Zone, MCD, who have reported that the subject property is an old and occupied.

4. That the said officials during their inspection conducted on 12.12.2022 have further observed that the said property comprises of ground floor, mezzanine floor, first floor, second floor, mumty, two rooms and toilet at third floor.

5. That the owner of the subject property provided, the copy of sanctioned building plan of the year 1946, which was tallied with the existing construction at site and it was observed that at some portion erection/removal of some walls/doors, at ground floor have been carried out in the recent past. During the inspection, no ongoing construction work was noticed except some renovation work in the nature of removal of door/window, unpainted/unfinished walls etc.

6. That from the visual inspection, no eminent danger was noticed to the structure of the subject property, however, out of abundant precaution, the owner/occupier was directed to furnish a structural stability certificate in respect of the subject property from a duly approved and empanelled structural engineer of MCD.

*7. That pursuant thereto, the owner has furnished a structural stability report issued by a registered MCD empanelled structural engineer who has certified that the structure of the subject property is not dangerous and the same is structurally safe. The report filed by the said structural engineer, as furnished by the owner of the subject property with the office of the answering respondent is annexed as **Annexure A.**”*

3. Learned counsel appearing on behalf of the private respondents and for the owner of other part of the building, raise various objections with respect to the locus and the maintainability of the present petition. They submit that even the civil suit is pending with respect to the same property.



4. Be that as it may, the instant writ petition is only confined to the extent as to whether any construction situates beyond the sanction granted by the respondent-Corporation. Since the respondent-Corporation has taken unequivocal stand that the building was inspected and no apparent violation was found therein, it has been stated that the subject property is not dangerous and the same is structurally safe. However, the respondent-Corporation directed the owner/occupier to furnish a structural stability certificate in respect of the subject property from the duly approved and empanelled structural engineer of the respondent-Corporation.

5. In view of the aforesaid, under Article 226 of the Constitution of India, the Court is not inclined to continue the instant writ petition and to further examine the rival contentions of the parties. However, the liberty is reserved in favour of the petitioner to raise his grievance, if any, before the competent Court. The fact whether the building is safe for human habitation will have to be determined keeping in mind various technical aspects. Whether the proceedings have been initiated by the petitioner with *bonafide* reasons or the same is an attempt to get the premises evicted, are also the relevant aspects which requires adequate consideration.

6. The petition stands disposed of in the aforesaid terms. Pending applications are also disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 16, 2024

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