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

+ **W.P.(C) 7084/2024**

ATUL KANTI TRIPATHI

..... Petitioner

Through: Mr. Himansu Chugh, Mr. Atul
Tripathi and Mr. Sachin Kumar
Sharma, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS..... Respondents

Through: Mr. Tushar Sannu, SC and Mr.
Manoviraj Singh, Adv. for MCD.
Mr. Ashutosh Gupta, ASC for MCD
(through v/c)
Ms. Sangeeta Bharti, SC and Ms.
Malvi Balyan, Adv. for R-4/DJB
(through v/c)
Mr. Rohan Jaitley, CGSC, Mr.
Hussain Taqvi, GP and Mr. Dev
Pratap Shahi, Adv. for R-2 and 3.
Mr. Vishal Chanda, Adv. for Mr. Udit
Malik, ASC, GNCTD for R-6 and 7.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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28.05.2024

CM APPL.29563/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 7084/2024

1. The present petition raises a grievance as regards the alleged unauthorized construction at property bearing No.20/1A, West Patel Nagar,



New Delhi-110008.

2. Learned counsel for the MCD submits that a show cause notice dated 24.05.2024 under Section 344(1) and 343 of the DMC Act, 1957 has been issued by the MCD *qua* the unauthorized construction in the shape of entire 3rd floor and 4th floor of the property in question.
3. It is submitted that a work stop notice has also subsequently been issued on 27.05.2024. It is further submitted that necessary demolition action shall be taken, in accordance with law, after adjudication of the aforesaid show cause notice.
4. Learned counsel for the petitioner submits that besides the 3rd floor and 4th floor, unauthorized construction in the form of 5th floor and 6th floor is also subsisting in the property in question. It is further submitted that even the ground, first and second floors of the construction are wholly unauthorized. Let the MCD consider this aspect of the matter as well while adjudicating the show cause notice under Section 344(1) and 343 of the DMC Act, 1957.
5. It is assured and undertaken by learned counsel for the MCD, on instructions that the aforesaid show cause notice shall be adjudicated expeditiously and in any event within a period of four weeks from today, and that requisite action, as may be warranted, shall be taken immediately thereafter. The said statement of learned counsel for MCD is taken on record.
6. Learned counsel for UOI rightly points out that since the land in question was handed over to MCD way back in 1960s, it is the obligation of the MCD to ensure that no unauthorized construction/unauthorized occupation comes up in the area in question.
7. Learned counsel for the petitioner submits that besides carrying out unauthorized construction, the respondent nos.8 to 10 have also illegally



obtained electricity, water supply and sewerage connections by using the address of the petitioner. Let the petitioner's representation to the DJB, BSES-YPL in this regard, be decided by the said authorities, after affording an opportunity of hearing to the petitioner. If necessary, an opportunity of hearing shall also be afforded to the owner/occupier of the property in question whereupon necessary action shall be taken.

8. The Deputy Conservator of Forest is also directed to inspect the property in question in view of allegation of learned counsel for the petitioner that there has been concretization of the roots of the trees subsisting in the property in question. Let the inspection be done by the Deputy Conservator of Forest, within a period of two weeks from today, and necessary action be taken within a period of two weeks thereafter.

9. No further orders are required to be passed in the present petition. The same is accordingly, disposed of.

10. Let a compliance affidavit be filed by the MCD within a period of eight weeks from today.

SACHIN DATTA, J

MAY 28, 2024/cl