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

+ W.P.(C) 11187/2021 & CM APPL. 34440/2021

SOUTH DELHI MUNICIPAL CORPORATIONPetitioner

Through: Mr. Tushar Sannu, SC with Mr.
Amit Singh Chauhan, Mr. Syed
Hamza G., Mr. Udit Chauhan and
Mr. Manoviraj Singh, Advocates.

versus

RAJ KUMAR KANAHI NURSERY & ANR.Respondents

Through: Mr. Ajay Kohli and Ms. Dipika
Prasad, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.11.2024

1. The petitioner-Municipal Corporation of Delhi ["MCD"] has approached this Court against a judgment of the learned Principal District and Sessions Judge dated 10.11.2020 in an appeal filed by the respondent No. 1 herein under Section 347D of the Delhi Municipal Corporation Act, 1957 ["the Act"].

2. The genesis of the dispute lies in an action taken by MCD in the year 2019, sealing a nursery operated by respondent No. 1. It is the contention of MCD that the sealing action was taken pursuant to directions of the Monitoring Committee, appointed by the Supreme Court in *MC Mehta v. Union of India & Ors.* [order dated 16.02.2006 in W.P.(C) No. 4677 of 1985].



3. Respondent No. 1 disputed that the directions of the Monitoring Committee were in respect of the nursery, and first approached this Court in W.P.(C) 11748/2019, against the sealing order. The Court, by order dated 15.11.2019, relegated respondent No. 1 to his remedies before the Appellate Tribunal for MCD [“ATMCD”] and granted interim protection. The ATMCD ultimately disposed of the appeal [Appeal No. 682/2019] on 28.02.2020, holding that the application for interim relief was not maintainable, as the directions for sealing of the property were given by the Monitoring Committee.

4. The respondents carried the matter in appeal before the learned Principal District and Sessions Judge. The Appellate Court set aside the decision of the ATMCD and remanded the matter back, with directions to decide the appeal on merits. The sealing order was also kept in abeyance. The Court came to the conclusion that the Monitoring Committee had exceeded its jurisdiction in passing directions with regard to the subject property, while refraining from expressing any opinion as to whether the property was covered by the restrictions contended in the Master Plan or whether there was any misuse or not.

5. After passing the impugned order, it is undisputed that the Monitoring Committee has again given directions for re-sealing of the premises on 01.03.2021.

6. In the meanwhile, the Supreme Court has also, by order dated 13.09.2022, constituted a Judicial Committee for the purpose of entertaining grievances against orders of the Monitoring Committee. The respondents had approached the Supreme Court, and their application has also been placed before the Judicial Committee in terms of the orders of



the Supreme Court.

7. The position today is thus, that the sealing of the respondents' premises is undisputedly on account of directions of the Monitoring Committee.

8. The orders of the Supreme Court in *MC Mehta (supra)* dated 15.12.2017, 07.09.2018, 27.11.2018, 28.01.2019 and 13.09.2022 make it clear that decisions of the Monitoring Committee are susceptible to challenge only before the Judicial Committee and the Supreme Court. That remedy has also been availed. The rights and contentions of the respondents will, therefore, now be governed by the orders of the Judicial Committee, subject to any challenge thereto.

9. The facts detailed above make further adjudication of the writ petition unnecessary, as the proceedings are now pending before the jurisdictional forum in accordance with orders of the Supreme Court. The proceedings before the ATMCD, which were remanded by the impugned judgment of the learned Principal District and Sessions Judge, were not resumed, as the judgment was stayed by this Court during the pendency of this writ petition.

10. The writ petition is therefore disposed of, with the directions that the rights of the parties will be governed by further orders to be passed by the Judicial Committee, or in any proceedings arising therefrom. Until such orders, the property will remain sealed, in term of the directions of the Monitoring Committee.

11. Mr. Tushar Sannu, learned counsel for MCD, points out that learned Principal District and Sessions Judge has also initiated contempt proceedings on an application filed by the respondents, alleging contempt



of the impugned judgment dated 10.11.2020. He has drawn my attention to an order dated 18.08.2021 passed by the learned Principal District and Sessions Judge in the contempt proceedings, by which the notice has also been issued to the Monitoring Committee. Mr. Ajay Kohli, learned counsel for the respondents, states that, in view of the subsequent developments narrated above, the contempt proceedings may also be closed. It is so ordered.

12. The writ petition, alongwith the pending application, is disposed of in terms of the above.

PRATEEK JALAN, J

NOVEMBER 8, 2024/MR/