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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CONT.CAS(C) 1184/2023 & CM APPLs. 61822/2023, 3042/2024 &
8709/2024

HEMANT SETHI

..... Petitioner

Through: Mr. Varun Nischal with Mr. Arif
Ahmed Khan, Mr. Manoj Awasthi,
Mr. Shubham Sharma and Mr. Afroz
Ahmad Khan, Advocates.

versus

GYANESH BHARTI & ORS.

..... Respondents

Through: Mr. Pritish Sabharwal, Advocate for
respondent/MCD.
(M): 9871878690
Email: pritishsabharwal1@gmail.com

+ CONT.CAS(C) 1185/2023 & CM APPLs. 61825/2023, 3233/2024 &
8708/2024

MR MOHIT CHANDWANI

..... Petitioner

Through: Mr. Varun Nischal with Mr. Arif
Ahmed Khan, Mr. Manoj Awasthi,
Mr. Shubham Sharma and Mr. Afroz
Ahmad Khan, Advocates.

versus

SH GYANESH BHARTI & ORS.

..... Respondents

Through: Mr. Pritish Sabharwal, Advocate for
respondent/MCD.
(M): 9871878690
Email: pritishsabharwal1@gmail.com



CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
15.04.2024

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1. Learned counsel appearing for the respondent-Municipal Corporation of Delhi ("MCD") submits that the property in question, i.e., Basement and Ground floor of property bearing no. 4/32, WEA, Karol Bagh, New Delhi, has been de-sealed vide order dated 10th April, 2024 issued by the Office of the Assistant Engineer (Building), Karol Bagh Zone, New Delhi.
2. The aforesaid fact is confirmed by learned counsel appearing for the petitioner.
3. This Court notes that the present petition has been filed alleging willful disobedience by the respondents of the order dated 04th August, 2023 passed by the Learned Additional District & Sessions Judge, Appellate Tribunal, Municipal Corporation of Delhi (ATMCD) in *Appeal No. 781/ATMCD/2022 and 235/ATMCD/2022*.
4. The property in question had been purchased by the petitioner in an e-auction from Kotak Mahindra Bank in 2021 and at the time of the purchase, the property in question was lying unsealed and open. However, subsequently, the property was sealed by the MCD in February, 2023. By order dated 04th August, 2023, the learned ATMCD directed de-sealing of the said property. Since, the said order passed by the learned ATMCD was not complied with, the present petition had been filed.
5. Subsequently, during the pendency of the present petition, by judgment dated 09th January, 2024, the learned District Court has also upheld the order passed by the learned ATMCD, thereby dismissing the



appeal filed by the MCD.

6. When the matter was listed for hearing before this Court, the Court was informed that the MCD had already filed petition being CM (M) No. 1879/2024 before this Court, thereby challenging the judgment dated 09th January, 2024 passed by the learned District Court. Thus, the matter was adjourned at request of the MCD.

7. This Court notes that the present matter was adjourned on various dates on 13th February, 2024, 29th February, 2024 and 20th March, 2024 at the request of MCD.

8. Subsequently, when the matter was listed on 21st March, 2024, this Court directed de-sealing of the property within a period of ten days. Order dated 21st March, 2024, reads as under:

“1. The Executive Engineer of Municipal Corporation of Delhi (“MCD”) of the concerned area, where the property is situated, is present in Court pursuant to the directions passed by this Court.

2. I have heard learned counsels for the parties as well as the concerned official of the respondent-MCD.

3. This Court notes that by order dated 04th August, 2023 passed by the Learned Additional District and Sessions Judge-cum-Presiding Officer, Appellate Tribunal MCD, in Appeal No. 781/ATMCD/22, the learned ATMCD has given clear directions to the MCD to de-seal the basement and ground floor of property bearing No. 4/32, WEA, Karol Bagh, Delhi.

4. An appeal was filed on behalf of the MCD against the aforesaid order, which came to be dismissed by order dated 09th January, 2024. Against the aforesaid order dated 09th January, 2024, the MCD is stated to have filed a petition, being CM(M) No. 1879/2024, which is pending before a Coordinate Bench of this Court and is now next listed for hearing on 09th May, 2024.

5. Learned counsel appearing for the respondent submits that since the petition is pending, no directions be passed by this Court, as the petition filed by the MCD shall be rendered infructuous.



6. This Court is of the view that any order passed in the contempt proceedings will not have the effect of rendering the petition of the MCD as infructuous, as the said petition is an independent and separate proceeding which has been initiated on behalf of the MCD.

7. Learned counsel appearing for the petitioner submits that when the matter before the Coordinate Bench of this Court in CM(M) No. 1879/2024, was listed on 11th March, 2024 and even subsequently on 15th February, 2024, no interim orders have been passed in favour of the respondent-MCD. This fact is taken note of.

8. At this stage, learned counsel appearing for the respondent-MCD submits that ten days may be granted for the purposes of de-sealing and seeking other appropriate orders, as the formalities for the purposes of de-sealing take time.

9. Accordingly, it is directed that the property in question, as aforesaid, shall be de-sealed by the respondent-MCD within a period of ten days from today.

10. It is clarified that the compliance of this order shall be done by the MCD, without prejudice to its rights and contentions.

11. In case the orders passed by this Court are not complied with, the concerned official shall be present in the Court on the next date of hearing.

12. Re-notify of 08th April, 2024, on Top of the Board in the Advance List.”

9. Subsequently, clarification applications were filed on behalf of the MCD for clarification of the order dated 21st March, 2024, which came to be disposed of vide order dated 04th April, 2024, which reads as under:-

“xxx xxx xxx

CM APPL. 20184/2024 in CONT.CAS(C) 1184/2023

CM APPL. 20181/2024 in CONT.CAS(C) 1185/2023

3. The present applications have been filed seeking clarification of the order dated 21st March, 2024.

4. The order dated 21st March, 2024 needs no clarification as in Para-6 of the said order, it has already been stated that the present



contempt proceedings will not have the effect of rendering the petition of the Municipal Corporation of Delhi (“MCD”) as infructuous, as the other petitions filed by the MCD are independent and separate proceedings, which have been initiated on behalf of the MCD.

5. *Needless to state that the petitions being CM (M) 1879/2024 and CM (M) 1894/2024 shall be considered by the appropriate court, independent of the present proceedings.*

6. *Accordingly, the present applications are disposed of.”*

10. Subsequently, when the matter was listed on 08th April, 2024, directions were issued to the MCD to de-seal the property, in the following terms:-

“1. Mr. Kumar Mahendra, Executive Engineer of Karol Bagh Zone, Municipal Corporation of Delhi (“MCD”) is present in Court.

2. This Court notes that there are no stay orders passed in CM(M) No.1879/2024 and CM(M) No.1894/2024 filed by the respondent. Thus, there is no legal impediment in de-sealing the property in question in accordance with the previous orders passed in this regard by various Courts. Accordingly, it is directed that the property in question shall be de-sealed by the MCD before the next date of hearing.

3. It is made clear that if the premises are not de-sealed before the next date of hearing, i.e., 15th April, 2024, cost of Rupees One Lac shall be imposed upon the respondent. This order is being passed in view of the fact that this Court has already granted various opportunities to the respondent in this regard.

4. Re-notify on 15th April, 2024 on ‘Top of the Board in the Advance List’.”

11. Pursuant to the aforesaid order dated 08th April, 2024, order of de-sealing has been passed by the MCD. The said order has been handed over by learned Standing Counsel for the MCD, during the course of hearing, which is taken on record. The said de-sealing order dated 10th April, 2024 reads as under:-

**“MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE ASSISTANT ENGINEER (BUILDING)
KAROL BAGH ZONE NEW DELHI**



**“Nigam Bhawan, Anand Parbat”
D.B. Gupta Road, Karol Bagh
New Delhi-110005**

No. D/AE(B)/KBZ/2024/763

Dated: 10/4/2024

**M/S SKT Enterprises
Having its Office at 13/32,
Basement, WEA, Karol Bagh,
Central, Delhi 110005.
Through its Proprietor
Sh. Mohit Chandwani
S/O Sh. Santosh Chandwani,
R/O 45/16, F.F. East Patel Nagar,
Central, Delhi-110008**

SUB: Regarding de-sealing of P. No. 4/32, GF, WEA, Karol Bagh, New Delhi.

Sir,

The premises under reference had been sealed on 06.03.2006 on account of unauthorized construction. The ground floor, in compliance of the order of the Hon'ble High Court of Delhi dated 21.03.2024/08.04.2024 in CONT. CAS(C) No. 1184/2023 and 1185/2023 has been allowed to be de-sealed by the Competent Authority. The same shall be de-sealed on 12.04.2024 at 4:00 PM. The de-sealing shall be subject to the outcome of the petitions bearing CM (M) 1879/2024 and 1894/2024. You shall not create any third party interest till the disposal of the CM(M)s and no construction should be done in the premises without the permission of the Corporation.

You are therefore, requested to be present at the site/premises on the designated date/time.

**Asstt. Engineer (Bldg.)
Karol Bagh Zone**

**MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE ASSISTANT ENGINEER (BUILDING)
KAROL BAGH ZONE NEW DELHI**

**“Nigam Bhawan, Anand Parbat”
D.B. Gupta Road, Karol Bagh
New Delhi-110005**

No. D/AE(B)/KBZ/2024/762

Dated: 10/4/2024



Sh. Hemant Sethi
S/O Sh. Shakti Prakash Sethi,
R/O AM-178, 2nd Floor,
Shalimar Bagh, Delhi-03

SUB: Regarding de-sealing of P. No. 4/32, Basement, WEA, Karol Bagh, New Delhi.

Sir,

The premises under reference had been sealed on 06.03.2006 on account of unauthorized construction. The basement, in compliance of the order of the Hon'ble High Court of Delhi dated 21.03.2024/08.04.2024 in CONT. CAS(C) No. 1184/2023 and 1185/2023 has been allowed to be de-sealed by the Competent Authority. The same shall be de-sealed on 12.04.2024 at 4:00 PM. The de-sealing shall be subject to the outcome of the petitions bearing CM (M) 1879/2024 and 1894/2024. You shall not create any third party interest till the disposal of the CM(M)s and no construction should be done in the premises without the permission of the Corporation.

You are therefore, requested to be present at the site/premises on the designated date/time.

*Asstt. Engineer (Bldg.)
Karol Bagh Zone"*

12. In view thereof, no further orders are required to be passed in the present petition.
13. Needless to state that all the rights and contentions of the parties in the CM(M) No. 1879/2024 and CM(M) No. 1894/2024, are left open to be adjudicated by the Court, before which, the said petitions are pending.
14. The present petition is accordingly disposed of with the pending applications.

MINI PUSHKARNA, J

APRIL 15, 2024

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