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

+ W.P.(C) 12751/2022
RAJU

.....Petitioner

Through: Mr. Aditya K., Advocate.

versus

MUNICIPAL CORPORATION
OF DELHI AND OTHERS

.....Respondents

Through: Mr. Arman Monga, Advocate for
MCD.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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15.10.2024

1. The petitioner has filed this petition under Article 226 of the Constitution complaining of alleged unauthorised construction at property No. C-224, JJ Colony, Budh Nagar, Inderpuri, New Delhi -110012.
2. The Municipal Corporation of Delhi ["MCD"] has filed a status report dated 09.10.2024, in which it is stated as follows:

"2. That as per available records, action u/s 343 & 344(1) of the DMC Act had been initiated against the unauthorized construction at P, No. C-224, JJ Colony, Budh Nagar, Inderpuri, New Delhi for the entire GF, FF, SF & Third floor vide file no. 207/C-104/B/UC/KBZ/22 dated 05.09.2022. Reply to the notice had been received on 09.09.2022. Personal hearing had been granted to owner/occupier on 27.09.2022. Order of demolition u/s 343 of the Act, had been passed, after following due process of law and after considering the submission of the owner/occupier on 28.09.2022.

3. That the demolition action had been fixed on 19.10.2022. However, demolition could not be executed as the entire property was found occupied. Therefore, a vacation notice u/s 349 of the DMC Act, 1957



*had been issued to the owner/builder/occupier of the property vide no. D/AE(B)/KBZ/2022/2693 dated 21.10.2022 to vacate the property so that demolition action against the unauthorized construction existing in the property could be taken. Copy of the vacation notice dated 21.10.2022 is annexed herewith as **Annexure-A**,*

4. That the owner/occupier of the property had started a very small construction on the roof of third floor which had been stopped immediately. Further, a special demolition programme had been fixed on 07.02.2023 with P.S. Inderpuri and during demolition action taken in the shape of remove of walls and cutting of column reinforcement at fourth floor, cutting of one slab reinforcement at third floor by gas cutter. Further action shall be taken in due course of time.

*5. That the property has also been inspected by the concerned JE(B)/KBZ on 08.10.2024. During inspection, it had been noticed that no further construction has been raised in the property and neither any construction activity was noticed nor any building material was found stacked at the site. Photographs of the property taking during inspection are annexed herewith as **Annexure-B** (colly)."*

3. It is evident from the above that some demolition action was taken in February, 2023, and further action is yet to be taken.

4. Mr. Arman Monga, learned counsel for the MCD, states that further action will be taken, pursuant to the demolition order dated 28.09.2022, as expeditiously as possible, and preferably within a period of twelve weeks from today, subject to the availability of police force.

5. In view of the aforesaid submissions, no further orders are required in this writ petition, which stands disposed of.

6. It is made clear that the aforesaid submissions are recorded without prejudice to the rights and contentions of any owners/occupants of the subject property, whose rights and remedies, available in law, are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements.

7. In the event the petitioner has any further grievance with regard to unauthorised construction, he is at liberty to approach the Special Task



Force [“STF”], constituted by the Supreme Court vide orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [*M.C. Mehta vs Union of India & Ors.*]. This direction is made with reference to the decisions of the Division Bench in *Devender vs. Govt. of NCT of Delhi and Ors* [order dated 20.09.2018 in W.P.(C) 1807/2018], *Sneh Lata & Anr. vs. North Delhi Municipal Corporation & Anr.* [order dated 08.04.2019 in LPA 245/2019], *Fazruddin vs. DDA & Ors.* [order dated 23.04.2019 in WP (C) 4649/2017], and in *Himanshu vs. East Delhi Municipal Corporation & Anr.* [order dated 31.07.2023 in W.P.(C) 8104/2022], and decisions of Coordinate Benches in *Abdul Gaffar vs South Delhi Municipal Corporation & Ors.* [order dated 28.02.2019 in W.P.(C) 1773/2019] and *Rashiduddin Malik vs. MCD & Ors.* [order dated 02.09.2024 in WP (C) 12102/2024].

PRATEEK JALAN, J

OCTOBER 15, 2024/MR/