



\$~12

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

+ **LPA 476/2024 & CM APPL. 34615/2024**

MR BHARAT BHARARA Appellant

Through: **Mr. Kunal Madan, Advocate**

versus

MUNICIPAL CORPORATION OF DELHI & ORS. Respondents

Through: **None**

%

Date of Decision: 01st June, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

CM APPL. 34614/2024(for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

LPA 476/2024 & CM APPL. 34615/2024

1. Present appeal filed under Clause X of the Letters Patent of the then High Court of Judicature at Lahore, which stands extended to the High Court of Delhi, challenges the order dated 6th October, 2023 passed in W.P (C) No. 3067/2021 ('impugned judgment') whereby the learned Single Judge disposed of the writ petition on the ground that Respondent no. 1, MCD had already passed a demolition order with regard to illegal construction.



2. The Appellant further seeks issuance of directions to Respondent no. 1/MCD to restore the 6 feet x 43 feet wide gali (lane) to its original position which has been encroached by Respondent No. 2 to 4.
3. Learned counsel for the Appellant states that Respondent Nos. 2 to 4 along with their deceased father started illegal and unauthorised construction in shop no. 1019, Gali Gayen Wali, Sadar Nala Road, Sadar Bazar, Delhi-110006 ('subject property') without seeking any approval/sanction from the municipal authority. He states that Respondent No. 2 to 4 have also illegally trespassed into the back lane (gali) which is a public pathway.
4. He further states that on 9th February 2021, Appellant lodged another complaint with the officials of MCD bearing no. GRV/CNZ/2021/165719 and with the Land and Building Department bearing no. DOL & B/R/2021/60022. He states that since no action was taken, therefore, Appellant was constrained to approach the writ Court seeking a direction to Respondent no. 1, MCD to demolish the illegal construction raised by the Respondent Nos. 2 to 4.
5. He states that on 22nd July, 2021 a demolition order was passed by MCD but only partial demolition of the subject property was carried out. He states vide impugned order dated 6th October, 2023, the underlying writ petition has been disposed of without directing the Respondents to remove the illegal construction. He states that in the present appeal, the Appellant seeks a direction of restoration of the back lane since it is a public land.
6. We have heard the learned counsel for the Appellant and perused the record.
7. The Respondent Nos. 2 to 4 have admittedly challenged the demolition order dated 22nd July, 2021 and the same is pending before the



Appellate Tribunal, MCD ('ATMCD') in Appeal. No. 217/2021 and there is an order of stay passed on 12th August, 2021. The issue of illegal construction including the construction, if any, by Respondent Nos. 2 to 4 on the public land is also sub-judice before the ATMCD.

8. In view of the second status report dated 12th October, 2022 filed by the MCD in the writ petition stating that it does not have the layout plan of the area so as to ascertain the extent of encroachment on public land, it is appropriate that the issue of encroachment is determined by the ATMCD. We, therefore, find no error in the impugned judgment, which would merit interference.

9. The present appeal has been filed with a delay of 190 days. The reasons stated in the application do not show sufficient cause for condoning the delay. The present appeal is, accordingly, dismissed on merits as well as on the grounds of delay.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JUNE 1, 2024/hp/ms