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

+ **W.P.(C) 8361/2024, CM APPL. 34356/2024**

KAILASH CHAND

.....Petitioner

Through: Mr. Vikas Goyal, Mr. Abhishek
Kumar, Advs.

versus

**MUNICIPAL CORPORATION OF DELHI
& ORS.**

.....Respondent

Through: Mr. Kannopriya Gupta, Adv for R-1.
Mr. R. S. Sasan, Adv for R-2.
Ms. Sweety Singh, Adv for R-4.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

10.09.2024

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1. The petitioner in the instant writ petition has sought directions to respondent no.1 and 4 to stop/restrain respondent no.2 and 3 in raising the alleged illegal and unauthorised construction in property bearing no. *D-206, Tagore Garden Extension, Delhi-110027*. The petitioner, to substantiate his grievances, has made various allegations with respect to the unauthorized construction and encroachment, including on public land.
2. On notice being issued, the respondent-Corporation has placed on record status report *vide* dairy number 3414323 dated 02.07.2024.
3. Upon a perusal of the said status report, it is seen that in paragraph nos. 3 to 8, the Corporation explained various actions which have been taken pursuant to the grievance raised by the petitioner.



4. In paragraph no.8, it is stated that after the execution of demolition action on 26.06.2024, a *watch and ward* notice has been sent to the SHO Rajouri Garden with a request to keep a strict *watch and ward* over the said demolished property so that no fresh construction is done by the owner/occupier. Paragraph nos.3 to 8 of the status report reads as under:-

“3. That as per record maintained by the answering respondent No. 1, i.e. Building Department-I, West Zone/MCD, the property bearing the property No. D-206, Tagore Garden, Extension, New Delhi was initially booked vide File No. EE (B-I) / WZ / UC / 2024 / 220 dated 24.05.2024 for unauthorized construction in the shape of Ground Floor and First Floor with projection on Municipal land. Consequently, a show cause notice u/s 344(1) and 343 of the DMC Act was issued to owner/builder on 24.05.2024 and served through pasting at site as well as served through Indian Speed Post. Copy of the show cause notice dated 24.05.2024 is annexed herewith as Annexure- ‘A’.

4. That a work stop notice u/s 344 (2) of the DMC Act vide was issued to concerned SHO Police Rajouri Garden, New Delhi vide No. D-211/EE(B)-I/WZ/2024/AE(B) dated 30.05.2024 with a request that the aforesaid unauthorized construction activity be stopped by the Police immediately and workmen present in the premises be removed and the zen cton material including the tools, machinery etc “involved in the execution of the work may be seized forthwith, so that no further unauthorized construction can be carried out at the site during holidays & odd hours also. Copy of the work stop notice dated 30.05.2024 is annexed ~ herewith as Annexure- ‘B’.

5. That further a letter dated 03.06.2024 was sent to SHO, Rajouri Garden, mentioning therein that the department has already initiated action against the unauthorized construction at property No. D-206, Tagore Garden Extension, New Delhi under Section 343 and 344 of DMC Act in-continuation or earlier letter dated 30.05.2024 under section 344(2) of the DMC Act to SHO Rajouri Garden with the request to stop the ongoing unauthorized construction at site and to ensure that no further construction is being carried out at site. Copy of the letter dated 03.06.2024 is annexed herewith as Annexure- ‘C’.

6. That subsequently demolition order under section 343 of the DMC Act was issued to the owner/builder on 07.06.24 and served through pasting on 07.06.2024 with a direction to demolish the above mentioned unauthorized construction within 6 days from the date of receipt of this order. Copy of the demolition order dated 07.06.2024 is annexed herewith as Annexure- ‘D’.

7. That thereafter, a demolition action against the unauthorized



construction/property under question was executed by the department in the presence of police force from concerned P.S.Rajouri Garden, New Delhi on 26.06.2024, during which following action has been taken:-

(i) Terrace: At terrace, two columns and Brick wall of about 15'x6'-0' and 8'x6'-0' were completely demolished. Further, one RCC panel of about 3mtrx0.900mtr was also cut down.

(ii) First Floor: At first floor one RCC panel was cut down of size around 3mtr x 0.900mtr and a big hole was made in front brick wall at four places.

8. After the execution of demolition action on 26/06/2024, a Watch and Ward has been sent to SHO Rajouri Garden, New Delhi vide No. D/218 EE(B)-I/WZ/2024/AE(B) dated 27/06/2024 with a request to keep strict watch and ward over the said demolished property so that no fresh construction is done by the owner / occupier. Copy of the watch and ward letter dated 27.06.2024 is annexed herewith as Annexure- 'F'."

5. Learned counsel, who appears for the petitioner, opposes the contents of the said status report and submits that the respondents have not carried out a complete demolition. He further submits that the respondent-Corporation has initiated action against the property of the petitioner at the instance of the private respondent and this action is undertaken with a *mala fide* intention.

6. The learned counsel who appears for the private respondent, however, opposes the same and submits that the notices pursuant to the action taken against the property of the petitioner were served by the Corporation prior to the filing of the instant writ petition. On the allegation of the petitioner that the subject property has been only partially demolished, he submits that his construction stands completely demolished and he also contends that the property of the petitioner is similarly placed.

7. Subsequently, the parties have made allegations against each other beyond the scope of the instant proceedings.



8. The Court, in the instant writ petition, is only concerned with the prayer made by the petitioner. If the petitioner is of the opinion that the Corporation has not fully demolished the property or has not adhered to its stand taken in the status report, the petitioner shall be at liberty to approach the Special Task Force [STF], which has been constituted pursuant to the notification dated 08.03.2019. In view of the grievances ventilated by the learned counsel for the respondents, they are also granted a similar liberty to agitate their grievance before the STF.

9. Needless to state that in event a proper complaint/representation is made to the STF by either of the parties, let the same be considered strictly in accordance with law.

10. In view of the aforesaid, leaving all rights and contentions open, the instant writ petition stands disposed of alongwith all pending applications.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 10, 2024/KG