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

\+ W.P.(C) 8460/2024 (*Disposed of case*)

SHAMEEM AHMAD .....Petitioner

Through: Mr. Vikas Aggarwal & Ms. Anshu Mahaya, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI & ORS. .....Respondents

Through: Mr. Vishal Raj Sehijpal, SC for MCD with Mr. Purushendra Bhardwaj & Ms. Priyanka Handa, Advocates for MCD.
Mr. Kshitij Chhabra, SPC for UOI with Ms. Anushka Gupta, Advocate for R-2/SHO, PS Shaheen Bagh.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% 18.12.2024

CM APPL. 69964/2024(CM For Restoration) **and W.P.(C) 8460/2024**

1. This is an application for restoration of W.P.(C) 8460/2024, which was dismissed for non-prosecution by an order dated 10.07.2024.

2. By an order dated 02.12.2024, notice of the application was to be served upon respondent Nos. 3 to 8. However, process fee has not been filed and the said respondents have therefore not been served. Mr. Vikas Aggarwal, learned counsel for the petitioner, submits that respondent Nos. 3 to 8 be deleted, from the array of parties in the writ petition, at the risk of the petitioner.

3. In view of this submission, respondent Nos. 3 to 8 are deleted from

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the array of parties in the writ petition. Amended memo of parties be filed within one week.

4. Mr. Vishal Raj Sehijpal, learned Standing Counsel for Municipal Corporation of Delhi ["MCD"] and Mr. Kshitij Chhabra, learned Senior Panel Counsel for respondent No. 2, which are the only remaining respondents, are present and do not object to the restoration. The application is therefore allowed and W.P.(C) 8460/2024 is restored to the file of Court in its original number.

5. The writ petition is taken on board with the consent of learned counsel for the appearing parties.

6. The writ petitioner seeks action in respect of alleged illegal and unauthorised construction in Plot No. *B -63, Shaheen Bagh, Okhla, New Delhi*.

7. As far as this aspect is concerned, Mr. Sehijpal has handed over to the Court, a status report dated 17.12.2024, which is taken on record. MCD has stated in the status report that the subject property was identified as *B-62/A, Shaheen Bagh, New Delhi* in the presence of the petitioner. The construction was found to be unauthorised, which was initially detected on 03.05.2024, in respect of the ground floor to second floor of the building and raising of walls and columns at the third floor. A show cause notice dated 22.04.2024 was therefore issued to the owners/occupiers of the property and a demolition order was passed on 03.05.2024. Work stop notice was also issued on 26.04.2024, and the utility service providers were requested to disconnect the water and electricity connection. It is stated in the status report that demolition action took place on 31.05.2024, by demolition of two RCC Panels and

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reinforcement bars on the first floor. Further demolition action took place on 05.07.2024 and two RCC panels and reinforcement bars on the second floor were demolished. Sealing proceedings were also initiated and a sealing order was passed on 11.07.2024. On 05.07.2024, it was also noticed that further unauthorised construction has been carried out in respect of the 3rd to 5th floor of building and raising of columns on the 6th floor. A further show cause notice was therefore, issued on 08.07.2024 which led to a demolition order dated 19.07.2024. Work stop notice was again issued on 08.07.2024 and sealing order was passed on 27.08.2024 and the ground floor of the premises was sealed at one point on 20.09.2024.

8. On 04.12.2024, a further inspection has been carried out which revealed further construction and tempering of seal affixed by MCD. A third show cause notice has therefore been issued to the owners/occupants on 04.12.2024 and action is contemplated after considering the reply to the show cause notice, if any. Further demolition action is also fixed on 26.12.2024. Mr. Sehijpal submits that such action, including action in respect of tempering of the seals, will be taken expeditiously and preferably within six weeks from today, in accordance with law, subject to availability of the police force and lifting of Graded Response Action Plan-IV [“GRAP-IV”] restrictions.

9. Mr. Sehijpal states that in view of GRAP-IV restriction presently in place in Delhi, no construction activities are permissible and MCD will coordinate with the concerned Station House Officer to maintain vigil and ensure that the restrictions are not breached in any way.

10. As MCD is in *seisin* of the issue, and is taking action, no further

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orders are required in this writ petition. The writ petition is therefore disposed of in terms of the aforesaid contentions of the MCD.

11. The rights and contentions of any owners/occupants of the subject property are reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements and bearing in mind the Supreme Court judgment dated 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [WP (C) 295/2022 and connected matters].

12. 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

DECEMBER 18, 2024/*'pv/kb'/*

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