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

Date of Decision: 24.06.2024

+ LPA 504/2024 & CM APPLs. 35484/2024 & 35485/2024

NAGMA SHEERIN AND ORS

..... Appellants

Through: Ms. Anam Siddiqui with Mr. Archit Jain and Mr. Dhananjai Shekhawat, Advocates.
(M): 9462816006

versus

MUNICIPAL CORPORATION OF DELHI AND

ORS.

..... Respondents

Through: Mr. Sanjeev Sabharwal, Standing counsel for respondent/MCD.
Mr. Anuj Aggarwal, ASC, GNCTD with Mr. Yash Upadhyay, Advocate for respondent no. 2 & 6.
(M): 9871160559
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anujaggarwalascgnctd@gmail.com
Mr. Rishab Raj Jain, Standing counsel with Mr. Raghav Awasthi, Advocate for respondent no. 3.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

HON'BLE MR. JUSTICE DHARMESH SHARMA

MINI PUSHKARNA, J (ORAL)

CM APPL. 35485/2024 (for exemption)

1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.



LPA 504/2024 & CM APPL. 35484/2024

3. The present appeal has been filed challenging the order dated 14th June, 2024 passed by the learned Vacation Bench in *W.P.(C) No. 8641/2024*, wherein, the learned Single Judge did not grant any interim relief in favour of the appellants herein.

4. Learned counsel appearing for the appellants submits that the lives of 18 families are at stake, as they are on the verge of homelessness and destitution, if action is taken against the property, without granting them any hearing.

5. It is submitted that the appellants are the residents of property bearing no. E-635 in Khasra No. 632, Jaitpur Block E, Jaitpur Extension-Part II (“subject property”). It is submitted that writ, being *W.P.(C)No. 8641/2024*, has been filed against the Municipal Corporation of Delhi (“MCD”) to prevent them from demolishing the subject property and evicting the residents, without issuing individual Show Cause Notices to them, or providing an opportunity to be heard.

6. Learned counsel further submits that the appellants are the individual house owners of the property, and collectively are the residents/owners of the ground floor, first floor, second floor, third floor and fourth floor of the subject property. It is submitted that the appellants had purchased the individual flats from respondent no. 6/the builder, during the period from 2021-2022. It is submitted that the appellants are bonafide purchasers, and they were not aware that there was any dispute with respect to the property in question.

7. It is submitted that the respondent no. 1/MCD has issued a vacation notice qua the subject property vide 27th April, 2023 to the respondent no.



6/builder. However, no individual notices have been issued to the appellants who are the subsequent purchasers of the subject property.

8. Per contra, Mr. Sanjeev Sabharwal, learned Standing Counsel appearing for the respondent/MCD, on advance notice, vehemently opposes the present appeal. He submits that the appellants, being the subsequent purchasers, have no right of any hearing. He further relies upon the judgment of this Court passed in the case of ***Dr. Mrs. R.A. Bhujwala & Ors. Vs Municipal Corporation of Delhi & Ors.***, reported as 1995 SCC OnLine Del 694. He further submits that the respondent no. 6-builder has already been heard and that even the learned Appellate Tribunal: MCD (“ATMCD”), has passed order against the respondent no. 6/builder. Thus, he submits that there is no fresh cause of action in favour of the appellants.

9. Having heard learned counsels for the parties, this Court notes that vide order dated 14th June, 2024, notice has been issued in the writ petition filed by the appellants. Reply is yet to be filed by the respondent/MCD, and the issues as raised by the appellants, are yet to be adjudicated by the learned Single Judge.

10. Accordingly, it is directed that *status quo* be maintained with respect to construction in the property bearing no. E-635 in Khasra No. 632, Jaitpur Block E, Jaitpur Extension-Part II, till the next date of hearing.

11. The respondent-MCD is directed to file reply in the writ petition of the appellants in terms of the order dated 14th June, 2024.

12. At this stage, learned counsel appearing for respondent no. 3/BSES Rajdhani Power Limited, submits that a letter has already been received by it from respondent no. 1-MCD, for disconnection of electricity in the subject property.



13. Accordingly, it is directed that respondent no. 3 shall not take any precipitative action against the subject property, till the next date of hearing in the writ petition of the appellants, pending filing of reply by the MCD.

14. It is made clear that the interim relief granted in favour of the appellants is only till the next date of hearing before the learned Single Judge. Learned Single Judge hearing the writ petition of the appellants herein, shall be at liberty to take appropriate decision as regards any interim relief in favour of the appellants, who are the petitioners before the learned Single Judge in *W.P.(C) No. 8641/2024*.

15. With the aforesaid directions, the present appeal is disposed of, along with the pending application.

MINI PUSHKARNA
(VACATION JUDGE)

DHARMESH SHARMA
(VACATION JUDGE)

JUNE 24, 2024

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