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

+ W.P.(C) 8690/2024 & CM APPL. 35510/2024, CM APPL. 35511/2024

SANTOSH RANI

Petitioner

Through: Mr. Ratan Prakash and Mr. Gul
Mohammad, Advs.

versus

MCD & ORS.

..... Respondents

Through: Mr. Ashtosh Gupta, ASC for MCD
(Through VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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24.06.2024

CM APPL. 35510/2024 (For Exemption)

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

W.P.(C) 8690/2024 & CM APPL. 35511/2024

3. The present petition has been filed for issuance of directions to the respondents to stay the operation and setting aside the impugned order dated 05th June, 2024 with respect to building/property bearing No. WZ-54(E-5), Rattan Park, Basai Dara Pur, New Delhi, belonging to the petitioner, passed by the Assistant Engineer (Building), West Zone.
4. It is submitted that the respondents handed over a copy of the Status Report pertaining to the appeals pending before the learned Appellate Tribunal Municipal Corporation of Delhi ("ATMCD") with respect to the



property in question only on the last date of functioning of the ATMCD before the Summer Vacations, i.e., on 07th June, 2024. Thus, the petitioner had no opportunity to approach the learned ATMCD for stay and setting aside of the impugned vacation notice dated 05th June, 2024, issued by the respondent-Municipal Corporation of Delhi (“MCD”).

5. Learned counsel appearing for the petitioner submits that petitioner is the owner of the aforesaid property, measuring 147 Sq. yards. It is submitted that the respondents had never served any notices, i.e., Show Cause Notice dated 10th November, 2015 or the demolition order dated 21st November, 2024 or further sealing order dated 06th February, 2017 and Vacation order dated 17th October, 2016 passed by the respondents. It is submitted that aforesaid orders have been passed without giving prior notice to the petitioner, and no opportunity was granted to the petitioner to appear and make submissions.

6. Learned counsel appearing for the petitioner submits that the petitioner had raised construction after getting the sanctioned building plan from the respondent-MCD. The entire construction was raised as per the sanctioned building plan. However, the respondent revoked the sanctioned building plan without giving any kind of opportunity of being heard to the petitioner or her predecessor in interest. Thus, it is submitted that various actions sought to be taken by the MCD are unlawful and arbitrary, without following the due process of law and the Principles of Natural Justice.

7. It is submitted that the construction raised by the petitioner in the building cannot be termed as illegal or unauthorized, in the absence of any opportunity of being heard to the petitioner.

8. Issue notice. Notice is accepted by Mr. Ashutosh Gupta, learned



Additional Standing Counsel appearing for the MCD.

9. He submits that the construction of building by the petitioner is unauthorized, as the earlier sanctioned building plan had been revoked.

10. Having heard learned counsels for the parties, this Court is of the view that since it is the grievance of the petitioner that he has not been granted any hearing by the respondent-MCD before issuance of the vacation notice, and that the petitioner has not got an opportunity to approach the ATMCD in that regard, this Court deems it expedient to suspend the operation of the vacation notice dated 05th June, 2024 for a period of two weeks from today.

11. The petitioner is at liberty to approach the learned ATMCD and raise all the issues therein. Needless to state, as and when the petitioner approaches the ATMCD, due hearing shall be granted to the petitioner.

12. It is further clarified that this Court has not commented on the merits of the case.

13. With the aforesaid directions the present petition is disposed of, along with the pending application.

**MINI PUSHKARNA
(VACATION JUDGE)**

JUNE 24, 2024/kr