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

+ **W.P.(C) 9200/2024 & CM APPL. 37672/2024**

SANJAY GUPTA AND ANR

.....Petitioners

Through: **Mr. Rajat Aneja and Ms. Sonali Chopra, Advs.**

Versus

NEW DELHI MUNICIPAL COUNCIL

...Respondent

**Mr. Sanjay Sharma, SC with
Mr. Pardeep Suhag and Mr.
Anand Sharma, Advs.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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08.07.2024

CM APPL. 37673/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 9200/2024 & CM APPL. 37672/2024

3. The present petition has been filed mainly on the ground that the Appellate Tribunal-MCD is non-functional on the ground of non-assuming of the charge by the Presiding Officer, Appellate Tribunal-MCD.
4. Learned counsel, therefore, points out that in terms of the order dated 07.06.2024, the Appellate Tribunal-MCD already protected the rights of the petitioners and directed the respondent-NDMC to file the record pertaining to the demolition order dated 29.05.2024 by the subsequent date of hearing.
5. He, therefore, submits that notwithstanding, the order dated



07.06.2024 which although is expiring today, the respondent-NDMC is trying to create the documents while illegally entering into the premises of the petitioner. He, therefore, submits that he not only prays for extension of the order dated 07.06.2024 till the Presiding Officer hears the matter, but also for injunction against the respondent-NDMC not to enter his premises unauthorisedly till the respondent-NDMC seeks necessary permission from the concerned authority.

6. The submissions made by the learned counsel appearing for the petitioner are strongly opposed by learned counsel, who appears for the respondent-NDMC, on advance instructions.

7. He submits that the respondent-NDMC was directed to take necessary action in W.P.(C) 6496/2024 which was disposed of on 10.05.2024.

8. Learned counsel, therefore, submits that the respondent-NDMC is required to re-inspect the property of the petitioner before submission of the record before the concerned Tribunal. He, therefore, submits that the alleged action which is sought to be challenged in the instant writ petition is strictly in accordance with law and the respondent-NDMC is following due process of law.

9. I have considered the submissions made by the learned counsel appearing on behalf of the parties and perused the record.

10. The order dated 07.06.2024 passed by the Presiding Officer of Appellate Tribunal-MCD reads as under:

“Brief reply has been filed by the respondent, copy of which has been supplied.

Respondent is directed to file the record pertaining to the demolition order dated 29.05.2024 by the next date of hearing.

Re-notify for submitting the original record and disposal of appeal on 08.07.2024.



In the meantime, respondent is restrained from taking any coercive action against the property, subject matter of the present appeal, pursuant to demolition order dated 29.05.2024, till the next date of hearing. Copy of this order be given dasti.”

11. It is thus seen that during the pendency of the main matter, the Appellate Tribunal-MCD has passed the interim order protecting the rights of the petitioner and restraining the respondent-NDMC from taking any coercive steps against the property in question.

12. So far as the plea raised by the respondent-NDMC with respect to the alleged action is concerned, particularly whether the same is in pursuance of the directions passed by this Court in W.P.(C) 6494/2024 on 10.05.2024, the same will have to be adjudicated.

13. Admittedly, the Appellate Tribunal-MCD is non-functional on account of non-availability of the Presiding Officer. The respondent-NDMC is well within its rights to point out before the concerned Tribunal that the alleged impugned action of inspection etc. is being carried out strictly in accordance with the directions passed by this Court or any other applicable rules or regulations. However, in any case, till the Presiding Officer of the Appellate Tribunal-MCD resumes the hearing and takes up the matter, the respondent-NDMC need to maintain the *status quo* as is existing today. It is, therefore, directed that the parties shall maintain the *status quo* with respect to the property in question and to also comply with the directions passed by the Appellate Tribunal-MCD on 07.06.2024 till the matter is taken up for hearing by the Appellate Tribunal-MCD.

14. All rights and contentions are left open. Whether the respondent-NDMC can be allowed to re-inspect the property or not and all other issues can be gone into by the Appellate Tribunal-MCD once the hearing of this matter is resumed.



15. The petition stands disposed of alongwith the pending application.

PURUSHAINDR KUMAR KAURAV, J
JULY 08, 2024/p