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

+ **W.P.(C) 9209/2024 & CM APPL. 37718/2024**

REENA

.....Petitioner

Through: Mr Akshay Bedi, Ms. Manju
Gaur and Mr.Raghavendra
Kumar, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Mr.Puneet Yadav, ASC for
MCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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18.07.2024

1. This petitioner has prayed for the following reliefs:-

"(a) To issue writ in nature of Mandamus or any other appropriate Writ, directions and/or orders thereby directing the respondents to withdraw the Demolition Order dated 07.06.2024 and the vacation order dated 02.07.2024.

(b) Any other directions and/or orders as this Hon'ble Court may deem fit may also be issued in favour of the Petitioner and against the Respondents, in the interest of justice."

2. On 08.07.2024, this Court has passed following directions :-

"1. Learned counsel for the petitioner submits that against the impugned action, he has already approached the Appellate Tribunal-MCD.

2. While pointing out order dated 04.07.2024, learned counsel submits that on account of non availability of the Presiding Officer of the said Tribunal, the hearing has been adjourned to 10.07.2024.

3. He, therefore, submits that in the interregnum, the respondents are intending to demolish the petitioner's property.

4. Issue notice.

5. Mr. Punit Yadav, learned counsel accepts notice on behalf of the respondent-MCD. Let the learned counsel for the respondent-MCD to take instructions and to file a reply.

6. Undisputedly, the petitioner has already availed alternate



remedy by way of filing an appeal under Section 343 of the Delhi Municipal Corporation Act, 1957, which is stated to be pending before the concerned Tribunal.

7. However, on account of non availability of the Presiding Officer therein, the appeal could not be taken up for hearing.

8. Therefore, the Court deems it appropriate to protect the petitioner's property till the appeal is taken up for consideration by the concerned Tribunal.

9. In the meantime, the respondent-MCD is directed to file a reply.

10. List on 18.07.2024."

2. The nature of construction coupled with the period of construction thereof and alleged violations would demonstrate that the matter needs to be adjudicated by the competent Tribunal. The petitioner has already filed a statutory appeal before the Appellate Tribunal-MCD. Although the MCD has filed the Status Report, however, the Court finds it appropriate to dispose of the instant writ petition with the following directions:-

(i) Let the appeal filed by the petitioner be taken up for consideration by the Appellate Tribunal-MCD once the Tribunal becomes functional.

(ii) The Appellate Tribunal-MCD is directed to first deal with the application for interim relief. Till the application is disposed of, the respondents are directed to maintain the *status quo* as on date.

(iii) Interim order to continue till the application for interim relief is decided by the Appellate Tribunal-MCD.

3. All rights and contentions are left open.

PURUSHAINDRA KUMAR KAURAV, J

JULY 18, 2024/MJ