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

+ **W.P.(C) 9352/2024 & CM APPL. 38341/2024 (stay)**

MAXWELL S. KOTY & ORS.Petitioners

Through: **Mr. Manoj Kumar and Mr.
Ajay Sharma, Advs.**

versus

MCD

.....Respondent

Through: **Mr. Ashutosh Gupta, ASC for
MCD.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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10.07.2024

CM APPL. 38340/2024 (Ex.)

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

W.P.(C) 9352/2024 & CM APPL. 38341/2024 (stay)

3. Heard learned counsel appearing on behalf of the petitioners. He is essentially aggrieved by the sealing/ demolition pursuant to the revocation order dated 12.06.2024 passed by the respondent. He submits that revocation of the sanctioned building plan so passed is based on non-application of mind. The respondent, without affording proper opportunity of hearing, has passed the impugned order. He, however, submits that the order dated 12.06.2024 has already been assailed before the Appellate Tribunal-MCD and on account of non-availability of the Presiding Officer therein, the said remedy is not efficacious.



4. Issue notice.
5. Mr. Gupta, learned counsel accepts notice on behalf of the respondent. He, on advance instructions, submits that the entire action impugned therein, is based on sound principle of law. According to him, the respondent, before passing the impugned order, had considered the ground realities and on appreciation of the entire circumstances, the impugned action has been taken. He, however, submits that in any case, since the petitioner has already availed the alternative remedy, it would be appropriate for the said authority to deal with the same in accordance with law.
6. Admittedly, the appeal lies before the Appellate Tribunal-MCD and the said remedy has already resorted to. It is also an admitted position that the Presiding Officer is not available as of now. Learned counsel submits at the Bar that the Division Bench of this Court has already directed for appointment of the Presiding Officer on an early date.
7. It is thus seen that the Presiding Officer before the Appellate Tribunal-MCD is likely to resume its functioning. Under the facts of the present case, till the Appellate Tribunal-MCD hears and passes appropriate orders on an application already submitted or to be submitted by the petitioner for grant of interim relief, the respondent shall not take any coercive steps.
8. With the aforesaid direction, the petition stands disposed of alongwith the pending application(s).
9. All rights and contentions of the parties are left open.

PURUSHAINDRA KUMAR KAURAV, J

JULY 10, 2024/p