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

+ **W.P.(C) 14866/2022**

DR. N.S. ARORA

.....Petitioner

Through: **Ms.Manvi Khurana and Mr.Karan
Suneja, Advs.**

versus

MUNICIPAL COPORATION OF DELHI & ORS.Respondents

Through: **Mr.Sanjay Vashishtha, SC for MCD
with Ms.Harshita Rai, Adv.
Mr. Nishank Tyagi PC, GNCTD
along with Mr.Gaurav Jain Adv for
R-2.
Mr.Tarun Singla, Adv.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% 18.09.2024

1. The petitioner in the instant writ petition seeks for the following reliefs:-

"(i) Direct the Respondent No. 1/ Municipal Corporation of Delhi to take immediate action and stop the illegal and unauthorized construction being raised by the Respondent No. 3 over the property bearing No. C – 93, Basant Kaur Marg, Block C, Shivalik Colony, Malviya Nagar, New Delhi – 100117; and

(ii) Direct the Respondent No. 1 to demolish the illegal and unauthorized construction already raised by the Respondent No. 3 over the property bearing No. C - 93, Basant Kaur Marg, Block C, Shivalik Colony, Malviya Nagar, New Delhi - 100117; and

(iii) Pass any such other order(s) as this Hon'ble Court may deem fit and proper in the light of facts and circumstances of the case."

2. The Status Report dated 10.10.2023 filed by respondent-MCD states



as under:-

"3. That this Hon'ble Court vide its order dated 13/09/2023 has been pleased to direct the respondent - MCD to file a further status report as to the action taken between 20/10/2022 to 17/04/2023.

4. That in terms of the aforesaid order/directions of this Hon 'ble Court, it is submitted that as per record and as also already placed before this Hon'ble High Court vide first/status report filed by answering Respondent - MCD before this Hon'ble Court that application /proposal vide File No. 24/FWIRZN/B-IISV2022 dated 10/11/2022, regarding regularization of Second floor of existing construction of the subject property was received in the Building Department-I of South Zone I MCD. On examine and noticing certain shortcomings I deficiencies therein, the same were duly communicated / conveyed vide Invalid Notice bearing No. 2309/Bldg-VSZI2022 dated 14/11/2022 and subsequent reminder bearing No. 2357/Bldg-VSZI2022 dated 25/11/2022. Copy of the Invalid Notice and reminder letter are again annexed herewith as **Annexure-A (Colly)**.

5. That further, on receiving no satisfactory response from the noticee to the aforesaid Invalid Notices, the application under reference for regularization of existing structure at Second floor of the subject property has been duly rejected and communicated vide letter No. D129811AE(Bldg.)/South Zone/2023 dated 10/02/2023. Copy of the rejection letter is again annexed herewith as **Annexure-B**.

6. That moreover, vide subsequent status report as filed by the answering Respondent - MCD, this Hon'ble Court has also been apprised that besides filing of the appeal before Hon'ble ATMCD the owner I occupier of the second floor of the subject property meanwhile also preferred a Writ Petition (C) No. 4544/2023 titled as "Mrs. Darshan Arora VS Land and Development Officer & Anr." seeking therein the following relief:-

- " v. issue appropriate writ/order/direction mandating the respondent no. I to issue NOC in favour of the petitioner in respect of the second floor of the property bearing no. C-93, Shivalik, Malviya Nagar, New Delhi-110017 for seeking omvard regularization of the said property;
- vi. issue appropriate writ/order /direction mandating the respondent no. I to provide NOC to the petitioner in terms of letter dated 03.02.2023 submitted before it and without delay;
- vii. issue appropriate writ/order/direction against the respondent no.2, thereby directing the respondent no.2 to keep in abeyance the letter dated 10/02/2023 through Assistant Engineer (Building) South Zone No. D/2981/AE(Bldg)/ South Zone 2023 whereby the regularization application preferred by the petitioner was rejected, till such time the decision on NOC in respect of subject property bearing no. C-93, Shivalik, Malviya Nagar, New De/hill 0017 taken by respondent no. I;
- viii. issue such order or pass such order or direction as may be deemed necessary and expedient in the interest of justice.



7. That in the aforementioned Writ Petition, this Hon'ble High Court vide its order dated 17/04/2023 passed the following main directions:-

"6. Issue Notice.

7. Learned counsels, as above, accept notice on behalf of the respondents and seek some time to file the counter-affidavit(s). Let the same be filed before the next date of hearing.

8. Re-notify on 13/10/2023.

9. Till the next date of hearing, no coercive steps be taken against the petitioner. "

Copy of the aforesaid order dated 17/04/2023 is annexed herewith as **Annexure-C.**

8. That in light of the above, it is submitted that pursuant to the demolition order already stands passed in respect of the subject property, the further necessary action could not be undertaken mainly on account of the fact of receiving of the regularization application from the owner/occupier of the second floor of the subject property which was rejected on 10/10/2023 by following the due process and further on account of the fact that vide order dated 17/04/2023 as passed in WP (C) 4544/2023, this Hon'ble High Court has directed for not taking the coercive steps against the petitioner therein i.e. that owner/occupier of second floor of the subject property.

9. That it goes without saying that further necessary action pursuant to the demolition order already stands passed in respect of the alleged unauthorized construction of the subject property will be taken expeditiously upon vacation of the interim protection as granted by this Hon'ble Court in the aforementioned Writ bearing No. 4544/2023, as per law."

3. It is, thus, seen that the respondent-MCD had already started taking action, with respect to the grievance raised in the instant writ petition. The respondent-MCD, however, in view of the pendency of W.P.(C) 4544/2023 stayed its hand in proceeding further.

4. The Court today, vide separate order disposed of the aforesaid writ petition. Respondent-MCD, therefore, is at liberty to take the issue to its logical end.

5. So far as the rights of the private respondents are concerned, they shall be at liberty to take necessary steps in accordance with law before the



appropriate forum/tribunal.

6. With the aforesaid, the instant writ petitions stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 18, 2024/MJ