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

+ **W.P.(C) 9471/2024 & CM APPL. 38918/2024 (stay)**

MOHD SHAKEEL

.....Petitioner

Through: **Mr. M.S. Khan & Ms. Niyati
Jain, Adv.**

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: **Mr. Tushar Sannu, SC for
MCD.
Mr. Sanjeev Sabharwal, SC
with Ms. Shweta Singh & Ms.
Himani, Advs.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **12.07.2024**

CM APPL. 38919/2024 (Ex.)

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

W.P.(C) 9471/2024

1. The petitioner in the instant petitions has prayed for the following reliefs:-

" • *That the petition may kindly be accepted and the impugned Demolition order purportedly dated 3.6.2024, which was received on 11.6.2024 No.257/AE(B)-IV/CNZ/2024, passed by Anil Bansal, Asstt Engineer Bldg-IV, Central Zone/MCD, Lajpat Nagar-II, New Delhi in respect of property bearing no./plot no.40A, Gali No.2, Noor Nagar Extension, Johri Farm, Jamia Nagar Okhla, New Delhi-1100025, may kindly be set aside; on the basis of which the threatened action of demolition is being initiated by the respondent may kindly be set aside and quashed; And,*

• *The respondent may be further directed not to act upon the impugned demolition order and regularize the construction under*



the provisions of Appendix 'Q' of the Unified Building Bye-Laws 1983, upon the payment of regularization fee; OR,

• Alternatively the respondent may be directed not to take any coercive action till the disposal of the application for grant of interim stay filed before the Hon'ble Appellate Tribunal, MCD."

2. Admittedly, against the impugned action, the remedy of appeal does lie before the Appellate Tribunal-Municipal Corporation of Delhi (MCD) under the Delhi Municipal Corporation Act, 1957.

3. Learned counsel appearing on behalf of the petitioner fairly submits that he has already resorted to the said remedy. He, however, points out that on account of unavailability of the Presiding Officer therein, the said remedy is not efficacious.

4. Issue notice.

5. Mr. Tushar Sannu, learned Standing Counsel for the respondent-MCD accepts notice and undertakes to apprise the respondent-MCD.

6. Since the matter relates to demolition/sealing and coercive steps to be taken against the petitioner, the petitioner is statutorily entitled to take remedy of appeal and to get its grievance redressed.

7. However, it is seen that as of now, the remedy available to the petitioner is not efficacious.

8. Having considered the submissions made by learned counsel for the parties, the Court deems it appropriate to pass the following directions:-

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

(ii) The Appellate Tribunal-MCD is directed to deal with the application for interim relief on an early date.



(iii) Till the application is disposed of, the respondent-MCD is directed to maintain the *status quo* as on date.

9. The instant writ petition stands disposed of.

10. Needless to state that in the meantime, the petitioners are also restrained to alter the structure in question and they shall abide by any of the directions to be passed by the said authority. The Court has not commented on the merit or otherwise of the matter.

11. All rights and contentions are left open.

PURUSHAINdra KUMAR KAURAV, J

JULY 12, 2024/DA