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

+ **W.P.(C) 9548/2024**

MUSHARRAF KHAN

.....Petitioner

Through: Mr. Rakesh Vatsa, Mr. JeetinJhala,
Mr. Shakunt Jhala, Ms. ReenilaJhala,
Mr. Pramod Kumar and Ranish
Nadeem, Advs.

versus

**MUNICIPAL CORPORATION OF DELHI
& ORS.**

.....Respondent

Through: Mr. Wasim Quadri, Sr. Adv, Mr.
Shekhar Dasi, Mr. M.D. Talha, Mr.
Ayush dassi, Advs.
Mr Anshu Lal Bhakru, Adv.
Mr. Rajan Tyagi, SC with Ms. Vijeta
Mukherjee, Mr. Harpreet Singh,
Advs.
Mr Raghvendra Upadhyay, Ms.
Purnima Jain, Mr. Vaibhav Tripathi,
Advs.
ASI Vikendra Kumar, P.S. Jamia
Nagar.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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04.09.2024

1. The petitioner has prayed for the following relief:-

*"This Hon'ble Court may please to issue a Writ of Mandamus or other
Writ or direction and orders as appropriate in the facts and
circumstances of the case, directing the respondents No.1 and 2 to*



take appropriate sealing and demolition action against the illegal, dangerous and unauthorized construction raised by the respondent no.3.

b. Issue an appropriate Writ, order or directions to the respondents No. 1 and 2 to immediately seal and stop the using of illegally constructed encroachment on the said property."

2. Pursuant to the order dated 15.07.2024, the respondent-Corporation has placed on record a status report dated 24.07.2024. However, in compliance with subsequent directions issued *vide* order dated 07.08.2024, a fresh status report dated 04.09.2024 has been presented during the course of hearing. Let the same be placed in the digital record of the Court, with a copy thereof being supplied to the learned counsel appearing for the petitioner.

3. The status report indicates that, on 12.08.2024, the respondent-Corporation undertook partial demolition actions, including the removal of RCC roots from the first floor (2 panels) and the second floor (2 panels). The respondent-Corporation has also re-sealed the entire property. According to the status report, the property remains sealed. Additionally, notice dated 13.08.2024 has been issued to the concerned SHO for necessary inspection to keep a vigil and to keep 'watch and warn' with respect to the subject property.

4. As per the averments made in the status report, the remaining unauthorized structure is scheduled to be demolished on 12.09.2024, subject to the availability of the requisite police force. The status report dated 04.09.2024 reads as follows:-

"2.That answering respondent had already filed affidavit detailing out various actions initiated and taken in accordance with provisions of DMC Act, 1957 against alleged unauthorized structure. The same are not being reiterated for the sake of brevity. On the last date of



hearing, the answering respondent had reported that further action is planned for 27/08/2024. This Hon'ble Court directed answering respondent to file fresh report before the next date of hearing.

3. That it is most respectfully submitted that answering respondent preponed said-program and carried out action on 12/08/2024, During said program, answering respondent cut down RCC roof of first floor (two panels) and second floor (two panels) and thereafter re-sealed the entire property. The subject property is lying sealed. Photographs showing the demolition of structure, as stated above, and affixing of seal are annexed herewith as Annexure-A(Collv), Pursuant to above action, the answering respondent issued watch & ward letter bearing No. D/571/AE(B)-IV/Central Zone/2024 dated 13/08/2024 to SHO/PS-Jamia Nagar for necessary instructions to patrolling team to keep watch and ward over the subject property so that owner/builder may not able to restore the demolished structures or tamper with seal affixed at subject property. Copy of the watch & ward letter dated 13/08/2024 is annexed herewith as Annexure-B.

4. That answering respondent has planned further action to Demolish remaining unauthorized structure, which shall be carried out on 12/09/2024 subject to availability of police force.”

5. In view of the aforesaid, the Court deems it appropriate to direct the SHO to extend full cooperation to the respondent-Corporation in facilitating the scheduled demolition. The respondent-Corporation is further directed to take all necessary actions to ensure that the unauthorized construction is fully demolished.

6. Let the same be done within four months from today.

7. If the petitioner, thereafter, has any grievance, he shall be at liberty to approach the Special Task Force (STF) constituted pursuant to the directions issued by the Supreme Court *vide* order dated 24.04.2018 in W.P.(C) 4677/1985 titled as ***M.C. Mehta v. Union of India***.

8. With respect to the grievance raised by the private respondent, the Court, at this stage, observes that private disputes in the nature of trespass or title *inter se* between the petitioner and private respondent are not amenable



to writ jurisdiction.

9. The private parties are at liberty to take necessary recourse in accordance with law.

10. The Court has restricted the aforesaid directions for the respondent-Corporation with respect to the unauthorised construction.

11. The petition stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 4, 2024/KG