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

+ **W.P.(C) 9578/2024**

MOHD. HASHIM

.....Petitioner

Through: Mr. Sanjoy Ghose, Senior Advocate
alongwith Mr. Firoz Iqbal Khan, Mr.
Rohan Mandal, Mr. Mohit Garg, Mr.
Amaan and Mr. Sameer, Advocates

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Mr. Ashutosh Gupta, Advocate

CORAM:

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR
KAURAV**

ORDER
15.07.2024

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CM APPL 39296/2024 (Exemption)

Allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 9578/2024 & CM APPL 39295/2024

1. Heard learned Senior Counsel appearing on behalf of the petitioner. He submits that the impugned action has been taken without affording an opportunity of hearing.
2. Issue notice.
3. Learned counsel appearing on behalf of respondent No.1 accepts notice.



4. Learned counsel for respondent No.1 raises objections with respect to maintainability of the instant writ petition without approaching the appellate authority.

5. This Court has considered various writ petitions involving almost similar controversy. It is to be noted that against any action pursuant to order of demolition, the remedy would lie before the Appellate Tribunal-MCD under the provisions of Delhi Municipal Corporation Act, 1957. Admittedly, the petitioner has not availed such remedy.

6. Learned Senior Counsel for the petitioner, however, submits that the petitioner be granted three working days' time to avail the said remedy. He also urges that for the period till appropriate order is passed on his stay application by the said authority, his rights be protected and respondents be restrained from taking any demolition action against the petitioner.

7. The Court has also noted in various matters that the Presiding Officer before the Appellate Tribunal-MCD is not available and therefore, the remedy which the petitioner intends to avail, as of now, is not efficacious. In any case, the grievance raised by the petitioner will have to be appropriately adjudicated.

8. Bearing in mind the submissions made in the instant writ petition and considering the similar order which the Court is passing in various other matters, the Court disposes of the instant petition with the following directions:-

- a) Let the petitioner to file an appeal alongwith stay application before the Appellate Tribunal-MCD within three working days.
- b) The respondents are restrained from taking any demolition action against the petitioner till the petitioner's application for stay is



decided by the said Tribunal.

c) All rights and contentions are left open.

PURUSHAINDRA KUMAR KAURAV, J

JULY 15, 2024

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