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

+ **CONT.CAS(C) 1492/2023 & CM APPL. 27587/2024**

KADEER AHMAD AND ORS.

..... Petitioner

Through: Mr. Jitendra Rexwal, Advocate
Email: jitendrarexwal37@gmail.com

versus

MUNICIPAL CORPORATION OF DELHI AND ORS.

..... Respondents

Through: Mr. Arun Panwar, Advocate for R-2.
Mob: 7827545811

Email:

advocatearunpanwar@gmail.com

Mr. Shekhar Dasi, Mr. Mohd. Talha,
Mr. Ayushi Dasi, Mr. Deepesh
Kasana and Mr. Rohit Bhandari,
Advocate for R-5.

Mob: 9718826767

Email: dasi.shekhar@gmail.com

Mr. Chetanya Singh, Advocate for
MCD.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

09.05.2024

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CM APPL. 27587/2024

1. The present application has been filed on behalf of respondent no. 5. It is stated that the respondent no. 5 is the owner of the property in question, i.e., property bearing No. G-53, Block No.6, Shaheen Bagh, Abul Fazal



Enclave, Part-II. Jamia Nagar, Okhla, New Delhi.

2. Learned counsel appearing for respondent no. 5 submits that action has already been taken by Municipal Corporation of Delhi (“MCD”) against the aforesaid property.

3. He submits that the demolition action was taken by the MCD without giving any opportunity of hearing to respondent no. 5. Consequently, it is submitted that the demolition order passed by the MCD and the action taken by the MCD, is sought to be challenged before the Appellate Tribunal: Municipal Corporation of Delhi (“ATMCD”).

4. Thus, by way of the present application, prayer has been made for direction to the MCD to supply copy of the demolition order and sealing order to respondent no. 5.

5. Mr. Chetanya Singh, learned counsel appearing for the respondent-MCD, on advance notice, submits that the requisite documents shall be provided to learned counsel for the petitioner.

6. Accordingly, it is directed that the demolition order, sealing order and any other requisite orders that may have been passed with respect to the aforesaid property, shall be supplied by the learned counsel appearing for the MCD to learned counsel appearing for the respondent no. 5/owner of the property in question on the E-mail, which is reflected in today’s order.

7. With the aforesaid directions, the present application is disposed of.

CONT.CAS(C) 1492/2023

8. The present petition has been filed alleging willful disobedience of the order dated 6th September, 2023 passed in *W.P.(C) 11854/2023*. By way of the aforesaid order, the Court had noted the submission on behalf of the MCD that the property in question has already been inspected and a Show



Cause Notice as regards the unauthorised construction existing in the aforesaid property, has already been issued.

9. Thus, recording that the MCD will take necessary action expeditiously, the said writ petition had been disposed of.

10. The present contempt came to be filed on the ground that no action had been taken by the MCD despite order passed by this Court.

11. Today, learned counsel appearing for the MCD has drawn the attention of this Court to the Status Report filed on behalf of the MCD. Attention of this Court is drawn to the photographs attached with the Status Report dated 4th November, 2023, wherein it is shown that part action has been taken by the MCD with respect to the unauthorised construction existing in the property.

12. Further, a letter dated 30th October, 2023 was also issued by the MCD to the Station House Officer (“SHO”), Police Station, Shaheen Bagh to keep watch and ward in the said property.

13. The said letter dated 30th October, 2023 issued by the MCD, reads as under:

**“MUNICIPAL CORPORATION OF DELHI
BUILDING DEPARTMENT
CENTRAL ZONE LAJPAT NAGAR
NEW DELHI**

No.342/AE(Bldg.)-II/Central Zone/2023

Dated: 30/10/2023

TO KEEP WATCH AND WARD

*The Station House Officer,
Police Station-Shaheen Bagh
New Delhi-*

*Sub: **Watch & Ward over property against which demolition action
has been taken by the MCD.***



Sir,

*Building Department, Central Zone has taken demolition action at the below property with the assistance of police made available from Police Station, **Shaheen Bagh**. The details is as under.*

S.I. No.	Date of Action	Property No.	Action Taken
1	25.10.2023	G-53, Block-6, 40, foota Road, Shaheen Bagh	During the course of action, shuttering of basement was removed from front half portion & three nos. of RCC panel were demolished with the help of hammer & steel bar were cut with the help of gas cutter

*In view of above, it is requested to kindly direct the patrolling staff to **keep strict vigil** on the aforesaid property, so that owner / builder may not able to restore/reconstruct the demolished portion of the property.*

Yours faithfully

*Assistant Engineer (Bldg.)
Central Zone*

Copy to:-

1. *EE(Bldg.)-I/Central Zone-for kind information please*
2. *J.E. (Bldg.) concerned*
3. *O.I. (B) CNZ to keep in the file*
4. *Office copy.*

*Assistant Engineer (Bldg.)-II
Central Zone"*

14. This Court also takes note of the further Action Taken Report filed on behalf of the MCD, dated 5th April, 2024, wherein it is categorically stated that pursuant to sealing order passed by the MCD, property in question has been sealed on 6th March, 2024. The relevant portions of the further Action Taken on behalf of MCD, reads as under:



“xxx xxx xxx

*3 That as per record, pursuant to the sealing order already stand passed in respect of the subject property i.e. Property No. G-53, Block-06, 40 Foota Road, Shaheen Bagh, New Delhi on 06.03.2024 upon availability of Police Force, during the course of the action, the complete property i.e. the Basement and columns on Ground Floor has been sealed at two points, one at front entry and other at back entry of tin sheet. The photographs showing the sealing action as undertaken are annexed herewith as **Annexure A (Colly)**.*

*4 That, it is also pertinent to point out here that after taking the aforesaid sealing actions a watch & ward letter has also been sent to the concerned SHO, PS Shaheen Bagh vide dated 07.03.2024 with the request to direct the patrolling staff to keep strict vigil at the subject property so that Owner/ Builder may not be able to tamper with the seal affixed by the department. The copy of the letter as sent in this regard is annexed herewith as **Annexure B**.*

5 That it is also relevant to state here that by way of earlier demolition action as undertaken by department vide dated 25.10.2023 and aforementioned sealing action as under taken on 06.03.2023 presently the subject property has been made uninhabitable.”

15. Learned counsel appearing for respondent no. 5, the owner of the property in question, confirms the fact of action having already been taken by the MCD.
16. Considering the aforesaid, it transpires that the requisite action has already been taken by the MCD and the directions as passed in the order dated 6th September, 2023 in W.P.(C) 11854/2023, stands complied with.
17. Thus, no further orders are required to be passed in the present proceedings.
18. However, liberty is granted to respondent no. 5, the owner of the property, to seek his remedies in accordance with law, including challenging any action taken by the MCD.
19. With the aforesaid directions, the present petition is disposed of.



20. The next date of hearing, i.e., 30th August, 2024 stands cancelled.

MINI PUSHKARNA, J

MAY 9, 2024

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