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

+ **W.P.(C) 9639/2024 & CM APPL. 42423/2024**

SH SAURABH MEHTA & ANR.

.....Petitioners

Through: Mr. Gunit Singh and Mr. Neeraj
Sharma, Advs.

versus

THE SUB DIVISIONAL MAGISTRATE & ORS.Respondents

Through: Mr.Karn Bhardwaj, ASC with
Mr.Shubham Singh, Advs for R-1 to
3.
Mr.Divya Prakash Pande, SC for
MCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **29.07.2024**

1. Learned senior counsel appearing for the petitioners submits that the impugned action is in violation of the provisions of Section 345 of the Delhi Municipal Corporation Act, 1957 (hereinafter 'DMC Act'). He, therefore, submits that the demolition with respect to property no. 1A and 2A, Sanjay Nagar, Sarai Peepal Thala, Delhi-110033 is wholly illegal and improper.
2. He takes this Court to *Annexure P-1* i.e., notice dated 06.03.2024 stated to have been served on Plot no.1, Sanjay Nagar, Jahangirpuri, whereas, the disputed property is no.1A and 2A, Sanjay Nagar, Sarai Peepal Thala, Delhi-110033. He further submits that unless the notices are served on the owner of the property in question, the respondents



cannot take any coercive steps against the petitioners.

3. Upon issuance of notice, the respondents have placed on record the Status Report in the form of a brief affidavit.

4. Learned counsel appearing on behalf of the respondent-MCD points out sealing order dated 22.07.2024 passed under Section 345A of the DMC Act and he submits that the petitioners were heard on 25.06.2024. The hearing was attended by Mr. Ashok Mehta, father of Mr. Saurabh Mehta. During the course of hearing, relevant documents were submitted including the sale deed along with conversion charges etc. Learned counsel, therefore, submits that the attendance of Mr. Ashok Mehta complies with the principle of *audi alteram partem*, even on assuming that the notice dated 06.03.2024 was not served on the correct address.

5. Learned counsel appearing for the respondent-MCD further submits that the petitioners are unable to exhibit any fault with respect to the decision taken on 22.07.2024 and the said decision has also not been assailed by the petitioners.

6. I have considered the submissions made by learned counsels for the parties and perused the record.

7. Though the provisions enshrined under Section 345 of the DMC Act requires a notice to be served on the owner, however, in the instant case, it is pertinent to take note of the order dated 22.07.2024 which unequivocally states that Mr.Ashok Mehta did appear before the concerned authority and presented his case. It, thus, becomes insignificant as to on which address the notice is served. Once the hearing is duly attended by the petitioner, the mode of service becomes irrelevant.

8. Moreover, while passing the order on 22.07.2024, the concerned



authority has considered various aspects and has held as under:-

"Because the officials of respondent no.1 have neither gave nor shown or disclosed about the so-called complaint, being received by them at their office vide Diary No. 3918/SDM/MT dated 27.03.2024, especially when admittedly the said complaint pertains to a Fire safety Certificate and Sanctioned Maps, etc. and the petitioners have already replied to the said issues in the preceding paras of the present petition."

9. It is to be further noted that the aforesaid order is not under challenge. Therefore, the Court, under the facts of the present case, is not inclined to entertain the instant writ petition.

10. Accordingly, the instant writ petition along with pending application stands dismissed.

11. The date earlier fixed i.e., 07.08.2024 stands cancelled.

12. The petitioners are at liberty to assail the order dated 22.07.2024, if they so desire.

PURUSHAINdra KUMAR KAURAV, J

JULY 29, 2024/MJ