



\$~81

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

+ **W.P.(C) 9797/2024**

RANI KUSHWAHA

.....Petitioner

Through: Mr. Rakesh Tanwar, Mr. Shubham
Bahl and Ms. Sanjana Gupta, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ANR

.....Respondents

Through: Mr. Ajjay Arora and Mr. Kapil Dutta,
Advocates for MCD

CORAM:

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

ORDER

19.07.2024

%

1. It appears that on 28.06.2024, this Court in W.P.(C) 8761/2024 passed the following directions:-

" 1. The present petition has been filed impugning the demolition order dated 29th May, 2024 passed by the Office of the Executive Engineer, Building-II Rohini Zone-V Municipal Corporation of Delhi, ("MCD").

2. Learned counsel appearing for the petitioner submits that the impugned order has been passed in an arbitrary and illegal manner with a predetermining mind.

3. Learned Standing Counsel appearing for the MCD submits that the petitioner has not been able to submit any documents to show that the subject property has been in existence prior to the year 2014 or that it is protected under the National Capital Territory of Delhi Laws (Special Provisions), 2014.

4. Be that as it may, since the present petition has been filed against a demolition order passed by the MCD, the present petition is clearly not maintainable, as there is an efficacious and alternative remedy available i.e. to file an appeal before the Appellate Tribunal, MCD ("ATMCD").

5. At this stage, learned counsel appearing for the petitioner submits that the petitioner was constrained to approach this court as the learned



ATMCD is not in session due to the ongoing summer vacations. He further submits that since the summer vacations are now going to conclude, the learned ATMCD shall be in session from 01st July, 2024, thus, he may be given liberty to approach the learned ATMCD.

6. Accordingly, it is directed that the petitioner shall approach the learned ATMCD by filing an appropriate appeal in accordance with law.

7. In order to, enable the petitioner to file an appropriate appeal before the learned ATMCD, it is directed that the operation of the impugned demolition order dated 29th May 2024, shall remain stayed for a period of ten days from today.

7. It is further directed that as and when an appeal and other appropriate application is filed before the learned ATMCD, the same shall be considered on its own merits. It is clarified that this court has not made any comments on the merits of the case of the petitioner.

8. Rights and contentions of both the parties are left open.

9. With the aforesaid directions, the present petition stands disposed of."

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner has already filed an appeal before the AT-MCD. The appeal so filed has not been taken up for hearing on account of unavailability of Presiding Officer.

3. The Court has granted protection under similar circumstances in some of the cases. Under the facts of the present case, the Court, therefore, deems it appropriate to extend the order dated 28.06.2024 till the application for stay is decided by the concerned AT-MCD.

4. With the aforesaid observations, the petition stands disposed of. All rights and contentions are left open.

PURUSHAINDR KUMAR KAURAV, J

JULY 19, 2024

p'ma