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

+ W.P.(C) 9802/2024 & CM APPL. 40178/2024

DR VANGA SIVA REDDY AND ANRPetitioners

Through: Mr. Manish Sharma and Ms.
Jigyasa Sharma, Advocates.

versus

MUNICIPAL CORPORATION
OF DELHI & ORS.

.....Respondents

Through: Mr. Ajjay Aroraa, Mr. Kapil Dutta,
Mr. Nitish Dubey and Mr. Vansh
Luthra, Advocates for MCD.
Mr. Srikanth Hariharan, Mr.
Paripoorn Singh and Mr. Rachit
Khandelwal, Advocates for R-2.
Mr. Manish Aggarwal, Advocates
for R-3.
SI Yogesh from P.S. V. K. North.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
11.11.2024

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1. The petitioners have approached this court under Article 226 of the Constitution, in respect of alleged unauthorized construction on property bearing *Plot No. 14, Pocket 5, Sector C, Vasant Kunj, New Delhi* [“subject property”].

2. It is the contention of the petitioners that they are the owners of second and third floor of the subject property, and that unauthorized



construction is being carried out by respondent Nos. 2 & 3, who are the owners of the basement, ground and first floor of the subject property. The contentions of the petitioners are disputed by respondent Nos. 2 & 3.

3. Be that as it may, Mr. Kapil Dutta, learned counsel for the Municipal Corporation of Delhi [“MCD”], states that during the pendency of the writ petition, the entire subject property was inspected and unauthorized construction was found. Show cause notices dated 15.07.2024 were issued to the petitioner and respondent Nos. 2 & 3. Demolition orders under Section 343 of the Delhi Municipal Corporation Act, 1957, have also been passed on 30.07.2024, both in respect of the second and third floor of the subject property, and in respect of basement and ground floor of the subject property. A demolition order was also issued in respect of first floor of the subject property on 22.08.2024. A copy of the demolition order dated 22.08.2024 has been handed over in Court and is taken on record.

4. It is stated by learned counsel for the respondent Nos. 2 & 3 that they have applied for regularization of the basement, ground floor and first floor of the subject property. The application for regularization remains under consideration before MCD. Respondent No. 2 has also filed an appeal before the Appellate Tribunal of MCD [“ATMCD”], which is under adjudication.

5. In these circumstances, the relief sought in the writ petition can be disposed of by directing MCD to take an expeditious decision on the application for regularization filed by respondent Nos. 2 & 3. Mr. Dutta states that certain non-compoundable deviations are yet to be removed by the said respondents, for which they have sought time until December,



2024.

6. Having regarding to the above, MCD is directed to inspect the basement, ground floor and first floor of the subject property in the first week of January 2025, to examine whether non-compoundable deviations have been removed. If so, MCD will take a decision on the regularization application with regard to this part of the subject property, within a period of four weeks thereafter. If required, action in terms of the demolition order will be taken after disposing of the regularization application.

7. Although the aforesaid directions take care of the relief sought in the writ petition, the petitioner has also filed an application [CM APPL. 65744/2024], which concerns an order dated 04.10.2024 passed by MCD, with regard to the application of the petitioner for carrying out construction on the third floor of the subject property.

8. The petitioner claims to have obtained a sanctioned plan to construct the third floor of the subject property, in respect of which the MCD has issued a show cause notice dated 02.08.2024 for revocation of the plan. The petitioner has replied to the show cause notice on 14.08.2024. In its order dated 04.10.2024, MCD has taken note of the disputes between the parties with regard to the respective rights of the parties to construct on the third floor and kept the sanctioned plan in abeyance, pending resolution of the matter by the civil court.

9. The issue of construction of the third floor is not the subject matter of the writ petition and to that extent, Mr. Sharma's argument with regard to the validity of such an order of "abeyance" is reserved for appropriate proceedings. However, in the interest of avoiding further litigation, it is recorded that, by the aforesaid order, MCD has directed the parties to



approach the civil court for resolution of ambiguity in the respected sale deed with regard to right to construct on the third floor. The parties are at liberty to do so, without prejudice to rights and contentions of the petitioner, as far as the validity of the order dated 04.10.2024 is concerned. If the petitioner chooses to avail of this remedy, they will also be entitled to seek interim relief in the proceedings before ATMCD/civil court. The contention of respondent Nos. 2 & 3 in this regard is tantamount to a challenge to the sanctioned plan granted by the MCD in favour of the petitioner. Respondent Nos. 2 & 3 will also be free to challenge the same before ATMCD in accordance with law.

10. The writ petition is disposed of with the aforesaid directions.

11. All rights and contentions of the parties are left open for consideration by the appropriate forum.

PRATEEK JALAN, J

NOVEMBER 11, 2024

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