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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 25th September, 2024***

+ CM(M) 1215/2022 & CM APPL. 48661/2022
MCD

.....Petitioner

Through: Mr. Ashutosh Gupta, ASC (MCD)
versus

SUNILA

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The respondent herein had filed one appeal under Section 347B of Delhi Municipal Corporation Act before the learned Presiding Officer, MCD Appellate Tribunal in the year 2021 which was registered as Appeal No.317/2021.
2. When the above said appeal was taken up by the learned Tribunal on 10.06.2022, noticing that it was not part of the 21,960 units qua which an affidavit had been filed by the Commissioner, MCD before the Hon'ble Supreme Court in Writ Petition (Civil) No.4677/85 in *M.C. Mehta vs. Union of India*, it directed MCD to inspect the property, calculate the misuser charges and to desal temporarily and then to reseal.
3. When the matter was again taken up by the learned Tribunal on 22.09.2022, since the above directed steps were not taken, a show cause notice was issued to Deputy Commissioner, MCD seeking his presence and also showing cause as to why action may not be taken against the erring official for non-compliance of said judgment.
4. It is in view of the above said directions that the present petition under Article 227 of the Constitution of India has been filed by the MCD.



5. I have heard both the sides.
6. Learned counsel for the respondent submits that the unit in question could not have been sealed.
7. As informed, even after the sealing of 21,960 units, 30,000 more units were sealed but according to the respondent, the unit in question does not fall in any category and, therefore, sealing should not have been done.
8. Learned counsel for the appellant states that he may be permitted to make fresh submissions in this regard before the learned Tribunal. Thus, both the sides request that they be relegated to the Tribunal for direction afresh in this regard. It is also informed that the appeal is still pending adjudication before the learned Tribunal but there is no significant development, particularly, in view of the pendency of the present petition.
9. The next date before the learned Tribunal is stated to be 24.10.2024.
10. In view of the above factual matrix and with the consent of both the parties, the present petition is disposed of with request to the learned Tribunal to consider afresh whether the property in question is part of 21,960 units or for that matter part of 30,000 units which were directed to be sealed in view of the specific directions given by the Hon'ble Supreme Court and then to proceed further with the appeal in accordance with law and to dispose the same, as expeditiously as possible.
11. The petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 25, 2024/ns