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

+ **CONT.CAS(C) 1552/2023 & CM APPL. 19182/2024**

ANAND TYAGI

..... Petitioner

Through: Mr. Raman Kapur, Senior Advocate
with Mr. Varun Kapur, Advocates.
(M): 9915032035

versus

DR ANGEL BHATI CHAUHAN & ORS.

..... Respondents

Through: Ms. Beenashaw N. Soni, SC, MCD
with Ms. Ann Joseph, Advocate for
respondent/MCD.
(M): 9205230113

Email: beenashaw.lawoffice@gmail.com.

Mr. Kunal Mittal with Mr. Arjit
Sharma, Advocates for respondent no.
3.

Mr. Abhinav Singh with Ms. Swega
Aggarwal and Ms. Vaishali Verma,
Advocates for respondent no.
5/Police.

Email: aslawchamber392@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
01.04.2024

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CM APPL. 19182/2024

1. The present application has been filed on behalf of respondent no. 3/applicant seeking dismissal of the present petition in view of the order dated 20th February, 2024 passed by the learned Appellate Tribunal, Municipal Corporation of Delhi (“ATMCD”), Tis Hazari Courts.



2. It is submitted that the writ petition being W.P. (C) No. 16132/2022 had been filed with directions for taking necessary demolition action in the property being part of Khasra No. 285/2, Revenue Estate, Village Chhatarpur, New Delhi.

3. This Court notes that by order dated 24th March, 2023 passed in W.P. (C) No. 16132/2022, a Coordinate Bench of this Court had recorded as follows:-

“1. By way of present petition filed under Article 226 of the Constitution of India, the petitioner has sought initiation of action against unauthorized constructions stated to be carried out by respondent Nos. 3 and 4 at property bearing Khasra No. 285/2, Revenue Estate, Village Chhattarpur, New Delhi.

2. A copy of the Status Report has been handed over which is taken on record and which reads as under :-

“4. That on inspection and referring to the record, the status of the property as noticed is detailed herein below:-

i) As per record, the subject property has been identified as Property bearing No. D-57, (Part RI-IS), 100 Foota Road, Chhattarpur Enclave, New Delhi, which is already stands booked vide file No. 614/UC/B-II/SZ/2022 dated 21/10/2022 in the shape of raising of column of Basement and Further booked Vide U/c File No. 687/UC/B-II/SZ/2022 dated 12/12/2022 in the shape of Basement, Ground and First floor in continuation of previous Booking No. 614/UC/B-II/SZ/2022 dated 21/10/2022, for taking the necessary demolition action under Section 343/344 of DMC Act. Upon following the due process of law in this regard, the necessary demolition orders/notices also stands passed/issued by the Competent Authority Le. AE (Bldg)-II of South Zone I MCD vide dated 04/11/2022 and 20/12/2022 respectively. The copy of the demolition orders/notices are annexed herewith as Annexure-A (Colly).

ii) Furthermore letters dated 10/11/2022 and 05/01/2023 u/s 344 (2) of the DMC Act, have also been sent to SHO, PS. Mehrauli, New Delhi with the request that the unauthorized construction be stopped and workmen present at site/property in question be



removed and construction material including the tools, machinery, etc. be seized. Copy of the letters as sent in this regard are annexed as Annexure-B (Colly).

iii) Besides this letters dated 10111/2022 and 0510112023 for disconnection of electricity and water supply from the aforesaid property have also been sent to the conceded authorities. Copy of the said letters are also annexed herewith as Annexure-C (Colly).

iv) Moreover, letters dated 10111/2022 and 0510112023 have also been sent to the Sub Registrar with the request not to register this property under Indian Registration Act, 1908. Copy of the said letters are also annexed as Annexure-D (Colly).

v) Apart from this, Prosecution action u/s 466-A of DMC Act, 1957 has also been initiated against the owner/builder and a complaint bearing No. DI3121/DCIEE(B)-111SZI2022 dated 2311112022 has been sent to SHO concerned PS Mehrauli, New Delhi. Copy of the said complaint is also annexed herewith as **Annexure-E**.

vi) Further it is also relevant to point out that in respect of the property in question, the necessary sealing proceedings u/s 345-A of DMC Act, has been initiated and after following due process of law, the necessary sealing orders have also been passed by the Competent Authority i.e. the Deputy Commissioner, South Zone IMCD vide dated 1211212022 and 2410212023. Copy of sealing orders are also annexed herewith as Annexure -F (Colly).

5. That it is also pointed out here that pursuant to aforesaid demolition I sealing orders already passed in respect of the subject property, the Building Department-II of South Zone IMCD has taken/carried out the necessary demolition/sealing action as per details given herein below:-

Sl. No.	Date of Action	Action Taken
1.	13.12.2022	Action could not be taken due to shortage of time, as the action was taken on another property.
2.	26.12.2022	Upon availability of police force 03 RCC roof



		<i>panels of Basement have been cut down. Simultaneously, entire property has been sealed at 04 points at Basement and 01 point at Ground floor.</i>
<i>3.</i>	<i>13.03.2023</i>	<i>Upon availability of police force, after de-sealing the property 02 RCC panels have been at Basement with the help of gas cutter. Simultaneously, the property have been re-sealed.</i>

The photographs taken during the aforesaid demolition and sealing action are also annexed herewith as Annexure-G (Colly).

6. That simultaneously, after taking the aforementioned sealing and demolition action, letters dated 2611212022 and 1310312023 have been sent to concerned SHO PS Mehrauli, with the request to direct the patrolling staff to keep strict watch and ward over the subject property so that the demolished portion may not be re-stored/repared and the seals affixed by the department may not be tampered with. Copy of letters as sent in this regard are also annexed herewith as Annexure-H (Colly).

7. That it is also pertinent to point out here that during the course of inspection by the area field staff on 0310312023 it has been found that keeping the seal intact as affixed on earlier action, the owner/builder has entered on the premises by the committing of the act of tress passing and resumed the construction activity/finishing work. On noticing the same, the necessary proceedings for lodging of an FIR u/s 448/188 of IPC read with section 461 of DMC Act, 1957 has been initiated. Simultaneously, upon noticing the further unauthorized constriction in the shape of part second floor, the



same has also been booked vide U/c file No. I 66/UC/B-11/SZ/2023 dated 03103/2023 for taking the necessary demolition action u/s 3431344 of DMC Act, 1957. The requisite Show Cause Notice in this regard has been issued. Further necessary action in this proceedings will be taken in due course of time by following due process of law. The copy of the Show Cause Notice as sent is annexed herewith as Annexure-I.

8. That the department has now fixed the further action pursuant to the aforementioned demolition/sealing orders already stand passed, in respect of the subject property for 2810312023, which will be taken/carried out, upon availability of police force.

xxx xxx xxx”

4. Thus, on the basis of aforesaid Status Report filed on behalf of Municipal Corporation of Delhi (“MCD”), it is manifest that the subject property, wherein unauthorised construction existed, was identified by MCD as property bearing no. D-57 (Part-RHS), 100 Foota Road, Chhattarpur Enclave, New Delhi. In the Status Report of the MCD, it was stated that necessary demolition and sealing orders against the aforesaid property had already been issued and that part-action had also been taken. It was further stated by MCD that further requisite action shall be taken in accordance with law. Recording the aforesaid statement, the said writ petition had been disposed of.

5. By way of the present application, attention of this Court has been drawn to the order dated 20th February, 2024 passed by the learned ATMCD in *Appeal No. 245/ATMCD/2023*, wherein with respect to the aforesaid property the matter has been remanded back to the Quasi-Judicial Authority of the MCD for passing fresh appropriate orders after giving hearing to the owner/occupier of the said property.

6. Learned counsel appearing for the respondent/MCD confirms the said fact and informs this Court that the next date of hearing before the Quasi-



Judicial Authority of the MCD is on 02nd April, 2024 and 08th April, 2024.

7. Accordingly, when the demolition and sealing orders passed by the MCD qua the aforesaid property have already been set aside and the matter stands remanded back to the MCD, there are no orders that can be passed by this Court in the present contempt proceedings.

8. At this stage, learned Senior Counsel appearing for the petitioner submits that part of property bearing no. D-57, as aforesaid, is property of the petitioner. Learned counsel appearing for the applicant in *CM APPL. 19182/2024* disputes the aforesaid submission.

9. However, the aforesaid contention made by learned Senior Counsel for the petitioner is not borne out from the record and this Court cannot go into the said issue in the present proceedings.

10. Considering the facts and circumstances of the present case, the present application is allowed and the present contempt petition is accordingly disposed of.

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

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12. The present petition is disposed of in view of the findings as given by this Court in *CM APPL. 19182/2024*

13. The next date of hearing of 25th April, 2024 stands cancelled.

MINI PUSHKARNA, J

APRIL 1, 2024

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