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

+ CM(M) 1228/2022, CM APPL. 48956/2022—stay, CM APPL. 51860/2022—stay

MUNICIPAL CORPORATION OF DELHI Petitioner

Through: Mr. Sanjeev Saga, SC for MCD with
Ms. Nazia Parveen, Ms. Shivangi
Kumar, Mr. Saurav Yadav, Mr.
Sanjeev Ranjan, Mr. Abhishek and
Mr. Fatesh Kumar Sahu, Advs.

versus

SH. KRISHAN

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER
15.05.2024

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1. The petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India to assail the order dated 19.10.2022 passed by learned ADJ-05, Central, Tis Hazari Court, Delhi (“Execution Court”) in Execution Petition No. 163/2020 titled as “*Sh. Krishnan vs. North Delhi Municipal Corporation & Anr.*”.

2. The petitioner vide the present petition has sought the following prayers: -

“a) Summon the record of Execution petition no. 163/2020, titled SH. KRISHAN Vs. North Delhi Municipal Corporation & Anr. Pending before Sh. Atul Kumar Garg, Addl. District Judge-05 Central District, Tis Hazari Courts, Delhi;



- b) Quash the order dated 23/09/2022 limited directions of conducting inquiry against the officials of the Corporation including the Commissioner of petitioner and imposition of costs against the petitioner;
- c) Set aside the impugned order dated 19.10.2022 passed in Execution petition no. 163/2020, passed by the Addl. District Judge-05 Central District, Tis Hazari Courts, Delhi;
- d) To pass any other or further order/s, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. Mr. Sanjeev Sagar, learned Standing Counsel for the MCD submits that as far as the prayer (c) is concerned, i.e., for setting aside the impugned order dated 19.10.2022, the learned counsel submits that a review application dated 31.10.2020 with respect to Award dated 19.12.2019 is pending disposal before the learned Execution Court thus, the said relief i.e., prayer (c) shall be covered by the same.

4. The learned Standing Counsel submits that now the main grievance remains with respect to the prayer (b) i.e, with respect to directions of conducting inquiry against the officer of the Corporation including the Commissioner of the petitioner and imposition of cost against the petitioner.

5. From a bare perusal of the impugned order, it is evident that the learned Execution Court had passed such directions as no authorised person on behalf of the petitioner was present before the court to apprise the court regarding the non-payment of the entire award amount of Rs. 12,29,330/- as directed and instead only part payment of Rs. 8,17,851/- was made by the petitioner to the decree holder.

6. Moreover, the learned Execution Court has observed that the compliance report as was directed by the said court vide order dated 29.09.2022 was filed under the signatures of some official but were not under the signatures of Commissioner, MCD. Further, the cost of Rs. 10,000



imposed on previous date of hearing by the learned Execution Court also remained unpaid.

7. However, the learned Execution Court had mandated the appearance of the Commissioner, MCD in person before the court at 12:30 PM on the same day. When the matter was called again after the Passover, the learned Execution Court observed that neither the report in terms of the previous order was not received from the Commissioner, MCD nor he appeared in person despite specific directions. Furthermore, even a responsible officer of MCD was not present in court to justify the calculations arrived at by the judgment debtor before disbursing the part decretal amount to the decree holder. The learned Execution Court has further observed as follows:-

“Last and final opportunity is thus given to the JD to satisfy the award dated 19.12.2019 positively within a period of two weeks from today subject to further cost of Rs.20,000/- to be deposited by the JD with Prime Minister National Relief Fund. Again, the court is not oblivious of the fact that the burden of even this cost shall ultimately fall on public exchequer, it is expected from the Special Officer, MCD to conduct an inquiry so as to fix the responsibility for the aforesaid cost and to order deduction of the same from the salary of the responsible officer. The Special Officer while conducting the inquiry shall also look into the conduct of Commissioner, MCD who has failed to ensure compliance of the Order dated 23.09.2022 despite service of copy of aforesaid Order upon him and has failed to avail the opportunity of personal hearing sought to be offered to him through an order passed in the morning.

Put up for further proceedings on 17.11.2022.

Copy of this order be served upon the Commissioner, MCD as well as the Special Officer, MCD through Sh. Pratham Singh, Assistant Sanitary Inspector, MCD, Rohini Zone who shall place on record an acknowledgement regarding delivery of copy of the aforesaid Order to both the aforesaid officers of the MCD within two days from today.

Copy of this order be also given dasti to Counsels for both the parties.

8. Learned Standing Counsel submits that a very vague order has been passed by the learned Execution Court and the order even does not clarify as



to whom the responsibility is to be fixed upon in respect of cost and for deduction of the same from the salary of the said responsible officer.

9. As the entire issue revolves around the entire decretal amount having not been paid up to the decree holder and only a part decretal amount was paid for which a review application is already pending disposal before the learned Execution Court, accordingly, the impugned order to the extent of ordering for inquiry to be conducted by the Special Officer, MCD and imposition of cost of Rs. 20,000 is set aside.

10. In view of the above observation, the petition along with pending application stands disposed of.

SHALINDER KAUR, J

MAY 15, 2024
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