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

+ W.P.(C) 10223/2024

MANINDER SINGH

.....Petitioner

Through: Mr. D.K. Mehta & Mr. K.N.
Singh, Advocates.

versus

LAND AND DEVELOPMENT OFFICER & ORS.....Respondents

Through: Mr. Anshuman, SPC for R-1.
Mr. Pritish Sabharwal, Advocate
for MCD.
Mr. Akshat Rehani, Advocate for
R-3

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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27.11.2024

1. The petitioner has filed this writ petition under Article 226 of the Constitution, for the following reliefs:

“(i) A writ petition under article 226 and article 227 of the Constitution of India for issuance of writ, order or direction in the nature of mandamus and/ or any other writ directing respondent no. 2 to demolish illegal construction raised by the occupiers and initiate action for misuse/conversion of industrial plot for commercial use without payment of conversion charges and permission in violation of the Delhi Municipal Corporation Act, 1957 and the Building By-Laws Act 2016 in property bearing no. 52, Block no.9, Kirti Nagar Industrial Area, New Delhi -110015;

(ii) A writ petition under article 226 and article 227 of the Constitution of India for issuance of writ, order or direction in the nature of mandamus and/ or any other writ directing respondent no. 1 initiate action for the breach of condition of lease and re-enter the possession of the industrial property bearing no. 52, Block no. 9. Kirti Nagar Industrial Area, New Delhi -110015.



(iii) A writ petition under article 226 and article 227 of the Constitution of India for issuance of writ, order or direction in the nature of mandamus and/ or any other writ directing Respondents no. 1 and 2 to comply with the directives in terms of the office order bearing no. F-24016/16/2022-CDM- 106 dated 12.04.2022 issued by the Dy. Land & Development Officer.

(iv) To pay the costs of this petition to the petitioner.

(v) Pass any other or any further directions, orders or writ as this Hon'ble court may, in the facts and circumstances and in the interest of justice deems fit and proper.”

2. Learned counsel for the petitioner submits that the property in question has been sub-divided unlawfully and that industrial/commercial activities are being undertaken on the property in multiple constructions. The petitioner is aggrieved, both by unauthorised construction and misuse of the property.

3. The Municipal Corporation of Delhi [“MCD”] has filed a status report dated 03.09.2024, in which it is stated as follows:

“2. That the property bearing Plot No. 52, Block No. 9, Kirti Nagar Industrial Area, New Delhi has been inspected by the concerned JE(B)/KBZ on 29.08.2024. During inspection, it has been noticed that multiple properties have been erected in the plot by way of sub-division of plot. The properties are being primarily appears to be in use for industrial purposes.

3. That at the time of inspection no fresh construction activity was noticed.

4. That the matter primarily pertains to the Land & Development, Department who has allotted the subject plot and it is free and responsible party to initiate appropriate action in case of violation of condition of allotment, if any.”

4. The status report of the Land and Development Office [“L&DO”] dated 24.09.2024, states that an inspection of the premises was carried out by the Technical Section of L&DO on 10.08.2024, which shows unauthorised construction, misuse of various constructions on the property and encroachment on Government land. L&DO has stated in the



status report that it has issued a breach notice dated 30.08.2024 to the lessees, Mr. Subhash Chand Kathuria and Mr. Ramesh Chand Kathuria for half undivided share, and Mr. Ram Sarup for half undivided share of the property in question. It is stated by learned counsel for L&DO that these are the three recorded lessees of the property, although learned counsel for respondent No. 3-Mr. Sunil Kathuria states that Mr. Ram Sarup has died, and respondent No. 3 is his son.

5. Learned counsel for respondent No. 3 submits that the breach notice dated 30.08.2024 has not been received by respondent No. 3. Learned counsel for L&DO is directed, without prejudice to his rights and contentions in this regard, to forward a copy of the notice to respondent No. 3, in the course of the day. It may be mentioned that a copy of the breach notice has also been annexed to the status report of the L&DO.

6. The status report filed by MCD mentions that there is no ongoing construction on the property, but does not contain any information with regard to the status of the construction which has already been erected. Mr. Prithish Sabharwal, learned counsel for MCD, submits that MCD will inspect the property again within the next one week, and if any unauthorised construction is found, show cause notices will be issued to the owners/occupants of the property within one week thereafter. Further action will be taken pursuant thereto, after consideration of replies to the show cause notices, if any.

7. As far as the L&DO is concerned, notices have already been issued and the L&DO has undertaken to take further action upon considering the replies to the notices.

8. In this view of the matter, learned counsel for the petitioner does



not seek any further orders in this writ petition, which stands disposed of.

9. It is made clear that these submissions have been recorded without prejudice to the rights and contentions of respondent No. 3 or any other owners/occupants of the property in question. The rights of the owners/occupants are expressly reserved. The statutory authorities are directed to act strictly in accordance with law, and after compliance of all statutory formalities. If any demolition is contemplated, MCD will also observe the precaution laid down by the Supreme Court in judgment dated 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [WP (C) 295/2022 and connected matters].

PRATEEK JALAN, J

NOVEMBER 27, 2024
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