



\$~17

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

+ **CM(M) 1344/2022, CM APPL. 52057/2022**

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. RAKESH

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

15.05.2024

%

1. Vide the present petition, the petitioner has sought to invoke the power of superintendence vested in this Court by Article 227 of the Constitution of India, to impugn the orders dated 17.11.2022 and 19.10.2022 passed by learned ADJ-05, Central, Tis Hazari Court, Delhi in Execution Petition No. 220/2020 titled as “Sh. Rakesh vs. North MCD.”.

2. Relevantly, the petitioner has sought the following prayers from this court:-

“a) Summon the record of Execution petition no. 220/2020, titled SH. RAKESH 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 17.11.2022 and 19.10.2022 limited to initiation of Contempt proceedings by issuing show cause notice to the Commissioner and Special officer of the petitioner and also 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 17/11/2022 and 19.10.2022 passed in Execution petition no. 220/2020, passed by the Addl. District Judge-05 Central District, Tis Hazari Courts, Delhi in view of the fact that the petitioner has complied with the award post passing of the impugned orders;

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 he has instructions from the Department that the decree stands satisfied. A copy of the cheque issued in favour of decree holder is placed on record. The learned Standing Counsel further submits that before the merger of various departments in the District, there was a huge financial crunch which was being faced by the Department. Thus, the decretal amount could not be paid in time to the decree holder.

4. It is further submitted that so much so that the salaries of the employees also could not be paid in time either. It was only under the orders of the Court that the same was being paid. It is submitted that now the financial situation has improved and thereafter the decree was satisfied which is also on the record of learned Execution Court. It is submitted that the physical appearance of the Commissioner, MCD as well as the imposition of cost had been ordered by the learned Execution Court as the decree was not satisfied. However, since the decree has been satisfied, the impugned orders to the extent of seeking physical presence of Commissioner, MCD and the imposition of cost be set aside.

5. From a plain reading of the order, it is clear that the learned Execution Court had passed such directions as no compliance report as was directed by



earlier order of the Execution court vide order dated 23.09.2022 was filed under the signatures of Commissioner, MCD and even the cost as earlier imposed was not deposited.

6. Therefore, the learned Execution Court had required the appearance of the Commissioner, MCD in person at 12:30 PM on the same day. When the matter was called again after the passover, the learned Execution Court observed that the report in terms of the previous order was not received from the Commissioner, MCD and he also did not appear in person despite specific directions. However, it was informed that the cost in terms of previous order has been paid and proof of the same was directed to be placed on record on the next date of hearing.

7. It was also observed that judgement debtor as per instructions submitted that the approval for the payment of the award amount has been obtained and the same shall stand satisfied within a week. The learned Execution Court granted the judgement debtor 2 weeks to comply to satisfy the award amount and imposed a further cost of Rs. 20,000 and had also directed the Special Officer, MCD to conduct an inquiry to fix the responsibility of the said cost and for deduction of the same from the salary of the responsible officer.

8. Thereafter, vide order dated 17.11.2022, the learned Execution Court observed that further cost as imposed vide its earlier order has not been paid till date and neither the award has been satisfied, despite submission made on the last date of hearing that the payment of the award will be cleared within a week. Since, no reports were also being filed by the concerned officers of the judgement debtor, the learned Execution Court issued a Show Cause Notice to the Commissioner, MCD as well as Special Officer of MCD



as to why a reference for contempt against them not be made to this Court for non-compliance of directions of the Learned Execution Court. Further, an additional cost of Rs. 10,000 was imposed of the judgement debtor and a direction for inquiry as was ordered earlier was directed to be conducted.

9. 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 responsibility of which officer is to be fixed in respect of cost and for deduction of the same from the salary of the said officer.

10. In view of the fact that the decree already stands satisfied, the impugned orders to the extent of conducting an inquiry to fix the responsibility for the aforesaid cost is set aside as also the cost of Rs. 20,000. The further cost of Rs. 10,000/- imposed vide impugned order dated 17.11.2022 is also set aside.

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

SHALINDER KAUR, J

MAY 15, 2024
SU