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

+ **W.P.(C) 10533/2024 & CM APPL 43297/2024**

SATISH KAPOOR

.....Petitioner

Through: Ms. Sunita Maan, Mr. Vishal Maan
and Mr. Kartik Dabas, Advs.

Versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Mr. Manu Chaturvedi, SC for MCD
with Ms. Devika Singh Roy
Chowdhury, Adv.
Mr. Mohit Bhardwaj, Adv. for R-2
Mr. Sunil Dalal, Sr. Adv. with Mr.
Nikhil Beniwal and Mr. Vikram
Singh Dalal, Advs. for R-3

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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18.09.2024

1. During the course of hearing, a copy of the latest Status Report has been handed over in Court today. Let the same be placed in the digital record of the Court.
2. A perusal of the Status Report would indicate that the Corporation has already initiated the necessary action, in accordance with law. Paragraph Nos. 2 to 4 of the same read as under:-

“2. That the property no. B-10, Kirti Nagar, Delhi had been inspected by the concerned JE(B)/KBZ on 08.08.2024. During inspection, although the property was old and built upto ground floor only.



*However, the owner/occupier of the building was seen carrying out construction of addition / alteration in the existing structure without any sanction building plan from the Respondent/MCD. The owner/builder has constructed projections surrounding already constructed area and 2-3 walls have been removed and replaced in the old structure in the premises of the plot. Accordingly, action u/s 344(1) & 343 of the DMC Act has been initiated against the said unauthorized construction and the property no. B-10, Kirti Nagar, has been booked for "unauthorized construction in the shape of addition/alteration/excess coverage in existing structure at ground floor" vide file no. 186/C-90/B/UC/KBZ/2024 dated 08.08.2024 and a show cause notice had been issued to the owner/builder. It is further submitted that an order of the demolition u/s 343 of the DMC Act, 1957 has been passed vide no. 186/C-90/B/UC/KBZ/24 dated 16.08.2024 and the owner/builder has been directed to demolish the unauthorized construction under notice within 06 days, failing which, the same shall be demolished at the risk and cost of the owner(s)/builder(s). The copy of the demolition order dated 16.08.2024 is annexed herewith as **Annexure-A**.*

*3. That the demolition order passed vide no. 186/C-90/B/UC/KBZ/24 dated 16.08.2024 has been challenged before Hon'ble ATMCD vide Appeal No. 665/2024 titled as Arun Sehgal & Anr. Vs MCD. The Hon'ble Tribunal vide order dated 09.09.2024 has directed to maintain status quo till next date of hearing. The matter is listed for hearing on 20.09.2024. Copy of the order dated 09.09.2024 downloaded from the official Website from the ATMCD is annexed herewith as **Annexure-B**.*

*4. That the property of the petitioner No. B-10A, Kirti Nagar, New Delhi has been inspected by the concerned JE(B)/KBZ on 20.08.2024. During inspection, it has been noticed that the property is old and residentially occupied. The property consists of ground floor, first floor and one room at second floor. At the time of inspection, no construction activity in the property was noticed. It is further submitted that as per record available in Building Department, Karol Bagh Zone, there is no sanction building plan in respect of Property No. B-10A, Kirti Nagar, New Delhi. In case, the petitioner is in possession of any sanction building plan in respect of construction existing in his property, the same be supplied to the Respondent/MCD by the petitioner. The photographs of the property taken during inspection are annexed herewith as **Annexure-C** (colly)."*

3. Learned senior counsel appearing on behalf of the private respondent



also submits that the private respondent has already approached the Appellate Tribunal-Municipal Corporation of Delhi (AT-MCD) and in terms of order dated 09.09.2024, certain protection has been granted.

4. Since the Corporation has initiated the legal action and the matter at the instance of private respondent is *sub judice* before the AT-MCD, the Court, at this stage, disposes of the instant writ petition alongwith the pending application, reserving all rights and contentions in favour of the parties. If the AT-MCD decides the matter against the private respondent, the petitioner, thereafter, shall be at liberty to approach the Corporation with a request to initiate the fresh action. The Corporation, however, shall be bound by the Status Report.

5. The petitioner is at liberty to file an appropriate application before the AT-MCD for petitioner's impleadment.

PURUSHAINdra KUMAR KAURAV, J.

SEPTEMBER 18, 2024

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