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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10553/2024

MANAV SHARMA

.....Petitioner

Through: Mr.Kamal Mehta, Advocate
(Through VC)

versus

MUNICIPAL CORPORATION
OF DELHI & ORS.

.....Respondents

Through: Ms.Payal, Advocate for R-1 and 2
(Through VC)
Mr.Viplav Acharya, SPC for Delhi
Police R-3
Mr.Dhruv Sharma, Advocate for
R-4 (Through VC)

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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22.11.2024

1. The petitioner has filed this petition under Article 226 of the Constitution, complaining of alleged unauthorized construction in five properties bearing *Nos. 112/2, Baldev Park, Village Khureji Khas, Delhi-51, and H. No. E-70 & B-13, South Anarkali, Delhi and 89, South Anarkali Extension, Delhi and 11/1, Geeta Colony, Delhi-31.*
2. The *locus* of the petitioner, as articulated in the writ petition, is that he had booked a floor in property *No.112/2, Baldev Park, Village Khureji Khas, Delhi-51*, in respect of which an Agreement of Sale was executed between him and respondent No.4 on 01.11.2021. Certain disputes are said to have arisen between the said two parties, in the course of which

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respondent No.4 informed the petitioner that he has four other properties under construction, and would allot a floor in one of the other properties to the petitioner. It is in this context that the petitioner discovered that all the constructions were unauthorised. In the writ petition, certain contentions have also been raised with regard to the quality of construction.

3. The Municipal Corporation of Delhi [“MCD”] has filed a status report dated 12.08.2024 detailing the status of construction of each of the five properties. The contents of the status report reveal that according to MCD, each of the properties has been constructed either without a sanctioned plan or in deviation of the sanctioned plan. Orders of demolition have been issued in respect of the five properties and sealing proceedings have also been initiated in respect of some of the properties.

4. Learned counsel appearing for MCD states that partial demolition action has also been taken in respect of some of the properties and further demolition action will be taken in accordance with law subject to the availability of the police force and lifting of Graded Response Action Plan-IV restrictions.

5. Be that as it may, it appears that the petitioner is really agitating essentially a civil dispute, by way of this writ petition. His *locus*, as articulated in the writ petition, arises out of an agreement of sale in respect of one of the properties, between him and respondent No.4. He has, therefore, challenged the unauthorized construction in all properties which the respondent No.4 is constructing.

6. The appropriate recourse, in such circumstances, particularly where diverse properties are involved, and the matter requires examination of



the status of construction of each of those properties, is for the petitioner either to institute civil proceedings or to approach the Special Task Force [“STF”] constituted by the Supreme Court *vide* orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [*M.C. Mehta vs Union of India & Ors.*]. This direction is made with reference to the decisions of the Division Bench in *Devender vs. Govt. of NCT of Delhi and Ors.* [order dated 20.09.2018 in W.P.(C) 1807/2018], *Sneh Lata & Anr. vs. North Delhi Municipal Corporation & Anr.* [order dated 08.04.2019 in LPA 245/2019], *Fazruddin vs. DDA & Ors.* [order dated 23.04.2019 in WP (C) 4649/2017], and in *Himanshu vs. East Delhi Municipal Corporation & Anr.* [order dated 31.07.2023 in W.P.(C) 8104/2022], and decisions of coordinate Benches in *Abdul Gaffar vs South Delhi Municipal Corporation & Ors.* [order dated 28.02.2019 in W.P.(C) 1773/2019] and *Rashiduddin Malik vs. MCD & Ors.* [order dated 02.09.2024 in WP (C) 12102/2024].

7. The writ petition is disposed of with liberty to the petitioner to take remedies as he is advised

8. It is made clear that this order is passed without prejudice to the rights and contentions of respondent No.4 or any other owners/occupants of the properties, whose remedies are reserved. The orders will also not come in the way of MCD taking such action against the unauthorised construction as it is entitled to in law, or any statutory remedies which the respondent. No.4 might possess.

PRATEEK JALAN, J

NOVEMBER 22, 2024/‘SV’/AL/