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

+ **W.P.(C) 10623/2024**

PANKAJ SHAKYA

.....Petitioner

Through: Mr. Iqra Naaz, Adv.

versus

**MUNICIPAL CORPORATION OF DELHI
AND ORS.**

.....Respondent

Through: Mr. Mukesh Gupta, SC, Mr. Aman
Gupta, Mr. Sashi Gupta, Advs.
Ms. Mehak Nakra, ASC Civil, for R-4

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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04.09.2024

1. The petitioner in the instant writ petition has prayed for the following reliefs:-

(a) A writ/order/direction in the nature of mandamus thereby directing the respondent no.1 to take legal action of demolition of illegal and unauthorised construction/encroachment in any form or any manner raised by respondent no. 2 and 3 upon public street/gali and upon common passage in property bearing no. 541-B, Chowk Mukim Pura, Subzi Mandi Delhi-7.

(b) A writ/order/direction in the nature of certiorari thereby, directing the respondent no. 1 and 4 to place on record all the actions taken report along with all documents and photographs taken in respect of complaints made by petitioner no. 1 in respect of illegal and unauthorised construction/encroachment at property no. 541-B, Chowk Mukim Pura, Subzi Mandi, Delhi-7.

(c) A writ/order/direction in the nature of writ of prohibition thereby restraining the respondents from making and permitted to be made any type of illegal and unauthorised construction/encroachment in future in violation of the easement and fundamental right of the



petitioner and his family and other occupants of the property no. 541 Chowk Mukim Pura, Subzi Mandi, Delhi-110007.

(d) Award litigation cost and adequate compensation to the petitioner. and/or;

(e) Any further appropriate writ/order/directions be also passed in favour of the petitioner and against the respondents as this Hon'ble Court deems fit and proper in the facts and circumstance of the case in the interest of justice.

2. In pursuance of the directions passed by this Court, the respondent-Corporation has placed on record its status report. A perusal of the status report would indicate that the mother of the petitioner has already filed a Civil Suit bearing no. 1504/2021 and the same is stated to be pending in the Court of ASCJ, Tis Hazari Courts.

3. Learned counsel for the respondent-Corporation, therefore, submits that there is a concealment of the relevant fact by the petitioner. The petitioner, however, submits that he is not a party to the Civil Suit and is unaware of the pendency of the said case apparently filed at the instance of his mother. Be that as it may, in view of the proposed order being passed by this Court, the aforesaid aspect may not have much significance, at this stage.

4. The respondent-Corporation in paragraph no.7 of its status report has taken the following position:-

"That as per record, the owner has again obtained sanctioned building plan under SARAL scheme vide 10 No. 10102464 dated 02.08.2022. during inspection on 01.08.2024, the property found residentially occupied and deviation beyond the sanction building plan and projection on municipal land at stilt, ground, first, second & third floor and also projection towards vacant portion of remaining part of plot owned by other relative of the petitioner. The property was booked vide file no. 180/C-12/UC/CLZ/2024 dated 01.08.2024 and the detail of unauthorized construction as per booking file is "U/c in the shape of deviation/excess coverage alongwith projection beyond permissible limit against sanctioned building plan vide ID No.



10047593 dated 11.04.2018 and 10102464 dt. 02.08.2022 at stilt floor, OF, FF, SF and third floor. " However, there is no fourth floor at site as mentioned by the petitioner and the property consist of Stilt, Ground floor, First Floor, Second floor and third floor only. "

4. It is discernible from the stand taken by the respondent-Corporation that a part of the property was booked on 01.08.2024 with respect to the unauthorised construction in the shape of the deviation/excess coverage alongwith projections beyond the permissible limit against the sanctioned building plan at ground, first, second, third and fifth floors.
5. The status report further indicates that there is no fourth floor at the site. It is also stated by the respondent-Corporation that necessary action has already been initiated and further action is scheduled to be taken on 10.09.2024. The respondent-Corporation is, therefore, directed to take the issue to its logical end within a period of four months from today. The concerned SHO is directed to co-operate with the respondent-Corporation.
6. Thereafter, if the petitioner has any remaining grievance, he is at liberty to approach the Special Task Force.
7. If the private respondent has any grievance with respect to the property of the petitioner, he shall be at liberty to approach the STF seeking necessary action.
8. With the aforesaid observations, the petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 4, 2024/KG