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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 15246/2023, CM APPL.61096/2023 (for dir. to R-1 to R-3),  
CM APPL.7260/2024 (early hearing)

ATIF JAMAL

..... Petitioner

Through: Mr. Ayaz Ahmed and Mr. Yogesh  
Kumar, Advs.

versus

THE COMMISSIONER MUNICIPAL CORPORATION OF DELHI  
& ORS.

..... Respondents

Through: Mr. Sanjeev Sabharwal, SC for MCD  
along with Ms. Shweta Singh, Adv.  
for MCD.  
Mr. Mohd. Naved M, Adv. for R-4 and  
R-7.

**CORAM:**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**ORDER**

**28.05.2024**

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1. The present petition has been filed by the petitioner raising a grievance as regards unauthorized construction at property bearing No.C-324 in Khasra No.668/385, (Revenue Estate Jasola) Measuring 1400 Sq. yds. Situated at Shaheen Bagh, Abul Fazal Enclave-II, Jamia Nagar, New Delhi-110025.

2. A status report has been handed over by the learned standing counsel for the MCD during the course of hearing, in which, it has been stated as under:-

*"2. That the answering respondent has already filed the affidavits detailing the efforts made by the MCD to prevent unauthorized construction in the Property in front of D-107, Shaheen Bagh, New Delhi and various demolition and sealing actions have also been taken on 05.12.2023, 15.02.2024, 19.02.2024, 24.02.2024 and 06.03.2014.*

*3. That further action has been taken against the subject property on 04.04.2024. During the demolition action taken on 04.04.2024 against the subject property, 04 nos. of RCC panel were demolished at Second Floor and*



*04 nos. of RCC panels were demolished at Third Floor and steel bars were cut with the help of gas cutter. The property was again sealed after carrying out demolition action. Photographs showing the action taken by the MCD on 04.04.2024 are annexed herewith as Annexure:A (Colly.).*

*4. That pursuant to aforesaid demolition action taken on 04.04.2024 a letter bearing No. D/30/AE(B)-II/CNZ/2024 dated 08.04.2024 has been sent to the SHO, PS Shaheen Bagh with the request to direct the patrolling staff to keep strict vigil over this property, so that Owner/Builder may not be able to restore the demolished portion or tamper with the seal affixed by the MCD. Cop of letter dated 08.04.2024 as sent to the SHO, PS Shaheen Bagh is being annexed herewith as Annexure:B.*

*5. That it has also come to the notice of MCD that the owner/builder of the subject property has tampered with the seal affixed by the MCD. Accordingly, the matter has been processed for lodging the FIR against the Owner/Builder/Occupier for the property u/s 448/188 of IPC and 461 of the DMC Act, for tampering with the seals affixed by the department.*

*6. That, further action against unauthorized construction in the subject property was planned for 24.05.2024 under the jurisdiction of PS Shaheen Bagh, but the same could not be executed, due to non-availability of Police Force as local police staff was engaged in Lok Sabha Election-2024. The copy of letter as issued PS Shaheen Bagh regarding non-availability of Police Force on 24.05.2024 is annexed herewith as Annexure:C.*

*7. That, further action against subject property has been planned for 27.05.2024. During the action, 06 number of RCC roof panels at roof of fifth floor have been demolished and steel reinforcement have also been cut. After demolition, entire building has been re-sealed at 08 points at Ground Floor. Photographs showing the action as taken by the answering respondent/MCD are annexed herewith as Annexure:D.*

*8. That pursuant to aforesaid demolition action taken on 27.05.2024 a letter bearing No. D/261/AE(B)-II/CNZ/2024 dated 27.05.2024 has been sent to the SHO, PS Shaheen Bagh with the request to direct the patrolling staff to keep strict vigil over this property, so that Owner/Builder may not be able to restore the demolished portion or tamper with the seal affixed by the MCD. Copy of letter dated 27.05.2024 as sent to the SHO, PS Shaheen Bagh is being annexed herewith as Annexure:E."*

3. Learned standing counsel for the MCD submits that although part demolition action has been taken as set out in the aforesaid status report, the entire building in question being wholly unauthorised, is liable to be



demolished. It is assured and undertaken by the learned standing counsel for the MCD, on instructions, that expeditious steps/action in this regard shall be taken and in any event, within a period of four weeks from today. The said statement is taken on record.

4. The concerned SHO, PS Shaheen Bagh shall render all requisite assistance to the MCD for the purpose of action proposed to be taken by the MCD.

5. Needless to say, any action that may be taken by the MCD shall be subject to the statutory/appellate remedies of the owner(s)/occupier(s) of the property in question.

6. Learned counsel for the owner(s)/occupier(s) *i.e.*, respondent nos.4 and 7 submits that the present petition is nothing but an attempt to extort money from the owner(s)/occupier(s) of the property in question and an FIR has also been lodged by the owner(s)/occupier(s) against the petitioner. Learned counsel for the owner(s)/occupier(s) *i.e.*, respondent nos.4 and 7 would be at liberty to take appropriate pleas in this regard in statutory/appellate proceedings.

7. In view of the aforesaid, no further orders are required to be passed in the present petition; the same, along with pending application/s, is accordingly disposed of in terms of the above directions.

8. In case, there is any deficiency in the action taken by the MCD, the petitioner shall be entitled to avail appropriate remedies, in accordance with law.

**SACHIN DATTA, J**

**MAY 28, 2024/r**