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

+ W.P.(C) 13041/2019 & CM APPL. 53191/2019

MOHD. IQBAL

.....Petitioner

Through: Mr. S.D. Ansari, Mr. I. Ahmed,
Advocates with petitioner in
person.

versus

SOUTH DELHI MUNICIPAL CORPORATION

THROUGH ITS COMMISSIONER & ORS

.....Respondents

Through: Mr. Ajjay Aroraa & Mr. Kapil
Dutta, Advocates for MCD.
Mr. Somnath Bharti, Mr. Anand
Prakash Gautam, Advocates for
respondent no. 4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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05.11.2024

1. The petitioner has approached this Court under Article 226 of the Constitution complaining of alleged illegal and unauthorised construction in property No. 271-A, *Hauz Rani, Malviya Nagar, New Delhi* [“the subject property”]. According to the petitioner, the construction is being raised by respondent No. 4 herein.
2. The Municipal Corporation of Delhi [“MCD”] has filed two status reports.
3. In the first status report dated 28.03.2023, it has been stated that:
 - a) The subject property was booked for unauthorised construction on 04.10.2013 in respect of the ground floor, and further on 10.04.2017 in respect of first, second and third floor of the property. Demolition orders were also passed on 28.10.2013 and



20.04.2017.

- b) Respondent No. 4 challenged the demolition order dated 20.04.2017 before the Appellate Tribunal for the MCD ["ATMCD"], which was set aside by order dated 20.07.2017, and the matter was remanded to MCD.
 - c) A further order dated 13.12.2017 was thereafter passed by the MCD stating that the property is protected by the moratorium provided under the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 as it was constructed prior to 01.06.2014.
 - d) However, in view of the fact that further unauthorised construction was being carried out, the property was again booked on 02.12.2019 in respect of the third floor and fourth floor, and a demolition order was passed on 11.12.2019. A stop work notice was also issued on 10.12.2019 and a sealing order passed on 18.02.2020.
 - e) MCD has carried out sealing action at two places at the third floor and two places at the fourth floor on 17.03.2020 and again on 18.08.2020.
 - f) The seals were found to be tampered with, as a result of which, complaints have also been lodged with the concerned police station on 19.08.2020 and 08.10.2020.
 - g) Re-sealing action has been taken at all four points on 15.02.2021 and partial demolition action has taken on 08.04.2021 and 28.10.2022.
4. A second status report has been filed on 14.08.2023, in which it is



stated that the seals have again been found tampered with in June, 2023 and the premises has been re-sealed on 11.08.2023. Necessary communications have also been issued to the concerned Station House Officer to maintain vigil over the subject property.

5. Mr. Kapil Dutta, learned counsel for MCD, states that further action in consequence of the aforesaid orders will be taken expeditiously in accordance with law, and has been planned on 29.11.2024, subject to availability of police force. He submits that action, in any event, will be taken within eight weeks from today.

6. Mr. Somnath Bharti, learned counsel for respondent No. 4, contests the *locus* of the writ petitioner. However, I am of the view that the writ petition can be disposed of on the statements made on behalf of MCD itself, while reserving the rights and remedies of the owners/occupants of the property, including respondent No. 4. MCD has already indicated that it is seized of the issue of illegal construction in the subject property, and that necessary orders have been passed. If the owners/occupants have any remedies available against such orders, they are free to avail of them. No further orders are required in this writ petition in this regard. MCD is directed to take action strictly in accordance with law and after compliance of all statutory formalities.

7. The writ petition, alongwith the pending application, is disposed of with these directions.

PRATEEK JALAN, J

NOVEMBER 5, 2024

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