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

+ **W.P.(C) 10974/2024**

SHARIB KHAN

.....Petitioner

Through: None.

versus

COMMISSIONER MCD & ORS.

.....Respondents

Through: Mr. Manu Chaturvedi, SC, MCD with
Ms. Devika Singh, Adv.
Mr.R.Venkat Prabhat, SPC for
Mr.Abhinav M.Goel, Adv for UOI.
Mr.Shekhar Dasi, Mr.Md.Talha and
Mr.Ayush Dassi, Advs for intervenor.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **04.09.2024**

1. None appears on behalf of the petitioner even on second call.
2. However, the Court has perused the Status Report filed by the respondent-MCD.
3. Paragraph no.3 to 9 of the Status Report reads as under:-

" 3. That so as to ascertain the status of the subject property the area field staff of Building Department Central Zone of I MCD has inspected the same and also referred to record I maintain in. this office. The status of the actions as initiated/ taken are detailed herein below:-

- i. During inspection, subject property has been identified by the concerned filed staff of the answering respondent/ MCD as Property adjacent to R-296, Jogabai Extension, New Delhi.*
- ii. The subject property falls/ situated in unauthorized colony where neither the provisions of Building Bye Laws/ MPD-2021 are applicable nor any sanction building plans are being*



issued.

iii. Demolition proceedings u/s 343/344 of the DMC Act- As per record, unauthorized construction at subject property was initially noticed on 01.07.2024 and accordingly, demolition proceeding against subject property was initiated u/s 343/344 of the DMC Act vide U/c file No. 3.88/B/UC/EE(B)-I/CNZ/2024 dated 01.07.2024 for the unauthorized construction in . the shape of Stilt, Ground Floor and First Floor. After following due process of law demolition order was passed on 12.07.2024. Copy of demolition order dated 12.07.2024 is annexed herewith as Annexure: A.

iv. **Work Stop Notice u/s 344(2) of the DMC Act-** To prevent further unauthorized construction, the answering respondent issued work stop notice to SHO/ PS Jamia Nagar vide No. D/272/AE(B)-I/CNZ/2024 dated 05.07.2024 for getting the construction work stopped, to seize the building material, tools and plant and to disperse the workforce from construction site. Copy of work stop notice as sent is annexed herewith as

Annexure: B. v. **Disconnection of Water & Electricity-** The answering respondent vide letter No. D/297/AE(B)-II/CNZ/2024 dated 11 .07.2024 also referred the case to Delhi Jal Board and BSES Rajdhani Power Limited for disconnection of Water and Electricity of the subject property. The office of Sub-Registrar was also requested for not registering the said property. Copy of the letter sent to BSES, DJB and Sub-Registrar is annexed herewith as **Annexure-C.**

vi. Sealing proceedings u/s 345-A of the DMC Act:-Sealing proceeding u/s 345-A of the DMC Act was also initiated against subject property and after following due process of law · sealing order also stand passed on 05.08.2024. Copy of sealing order dated 05.08.2024 is annexed herewith as **Annexure: D.**

4. That, pursuant to demolition as stand passed, an action against subject property was planned for 01.08.2024, but the same could not be executed, as action on the said was started from Property Adjoining 13 (as per court case) E-141 (Old) 101 -B (New) Street No. 21, Zakir Nagar, Jamia Nagar, New Delhi involved in another High Court matter "Delhi Ki Galiyan (NGO) Vs The Dy. Commissioner, MCD & Drs" and time left after the said action was not sufficient to take action at subject property.

5. That, on 05 .08.2024 it has been noticed that despite initiation of aforesaid actions, Owner/ Builder of the property has carried further unauthorised construction in the shape of Second Floor to Fourth Floor, accordingly, same has also been booked u/s 343/344 of the DMC Act vide U/c file No. 443/B/UC/EE(B)I/ CNZ/2024 dated



05.08.2024 and accordingly, a Show Cause Notice u/c 344(1) & 343 of the DMC Act bearing printed No. 14488 dated 05.08.2024 was issued in the name of Owner/ The competent authority after following due process of law passed demolition order dated 14/08/2024. Copy of demolition order is annexed herewith as **Annexure: E.**

6. That pursuant to the demolition/sealing order already stand passed, demolition action against subject property was planned for 06.08.2024. During the action, upon availability of Police Force, 06 number of RCC roof panels (02 RCC panels of Ground Floor roof, 03 RCC panels at first floor room and 01 RCC panels of Stilt Floor roof) have been demolished. After taking aforesaid demolition action, entire property has been sealed from Ground Floor main entrance at 02 points.

Photographs showing the aforesaid action as taken by the department are annexed herewith as **Annexure: F.**

7. That, pursuant to aforesaid demolition/ sealing action, a letter bearing No. D/512/AE(B)-IV/CNZ/2024 dated 06.08.2024 has been sent to the SHO, PS Jamia Nagar with the request to keep strict vigil over subject property, so that Owner/ Builder of the property may not be able to restore the demolished portion/ tamper with the seals affixed by this department. Copy of watch & ward letter dated 06.08.2024 is annexed herewith as **Annexure: G.**

8. That answering respondent carried out further action on 29/08/2024. During said program, answering respondent cut down RCC roof of mumty (two panels) at fourth floor and thereafter re-sealed entire property by affixing seal at ground at main entrance. The entire property is lying sealed. Photographs showing the demolition of structure, as stated above, and affixing of seal are annexed herewith as **Annexure-H (Colly)** Pursuant to above action, the answering respondent issued watch & ward letter bearing No. D/675/AE(B)IV Central Zone/2024 dated 30/08/2024 to SHO/PS-Jamia Nagar for necessary instructions to patrolling team to keep watch and ward over the subject property so that owner/builder may not be able to restore the demolished structures or tamper with seal affixed at subject property. Copy of the watch & ward letter dated 30/08/2024 is annexed herewith as **Annexure-I.**

9. That answering respondent has planned further action, which shall be carried out on 19/09/2024 subject to availability of police force."

4. It is thus seen that the respondent-MCD has planned further action to be taken on 19.09.2024 subject to availability of the police force.

5. The Court directs the concerned SHO to fully cooperate with the



respondent-MCD officials.

6. Respondent-MCD is directed to take the issue to its logical end within a period of four months from today.
7. The petitioner shall be at liberty to approach Special Task Force (STF) thereafter, in case his grievance is not fully mitigated.
8. Accordingly, the instant writ petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 4, 2024/MJ