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

+ **W.P.(C) 11062/2024**

SHIKHA RANI DAS

.....Petitioner

Through: Mr. Ali Chaudhary, Advocate.

Versus

MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondents

Through: Mr. Mohit Bhardwaj, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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09.08.2024

CM APPL 45724/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 11062/2024 & CM APPL 45725/2024

1. The instant writ petition is against the order dated 24.07.2024 and the order of demolition dated 31.05.2024, passed by respondent no.1.
2. The order dated 24.07.2024 would indicate that the respondent-Corporation has found the portions of basement, ground floor, first floor, second floor, third floor, fourth floor and fifth floor as unauthorisedly



constructed. The order dated 02.08.2024 under Section 345-A of the DMC Act would further indicate that the building in question is unauthorisedly constructed in the shape of basement, ground floor, first floor, second floor, third floor, fourth floor and fifth floor (basement to fourth floor old and occupied). Learned counsel appearing for the petitioner, therefore, submits that when the basement to fourth floor according to the respondent-Corporation has been found to be the old construction, the same is saved by the operation of amendment of The Delhi Laws (Special Provisions) Act, 2006 (Act of 2006).

3. Learned counsel who appears for the respondent-Corporation tries to indicate that the basement to fourth floor, as has been categorised old and occupied, does not mean that the same would only signify that on the date of inspection, the construction from the basement to fourth floor was already in existence. He, therefore, submits that the petitioner is unable to satisfy the respondent-Corporation as to on what basis, the construction is saved by the provisions of Act of 2006.

4. On a pointed query put forth to the petitioner to satisfy as to on what basis the petitioner claims to be protected by the provisions of the aforesaid Act, the learned counsel appearing for the petitioner requests for seven days time to be granted to satisfy this Court.

5. At this stage, the Court is not inclined to accede to the aforesaid request. The petitioner ought to have placed all those documents at the time of filing of the instant writ petition. In absence of there being any satisfaction to establish that the construction in question is saved by the provisions of Act of 2006, the Court is unable to exercise jurisdiction under Article 226 of the Constitution of India.



6. Accordingly, the instant petition stands dismissed.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 9, 2024

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