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

+ **W.P.(C) 11347/2024**

RAJENDER

.....Petitioner

Through: Mr. Sahil Munjal and Ms. Rhea Gandhi, Advs.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondents

Through: Mr. Ajjay Aroraa and Mr. Kapail Dutta, Advs. for MCD.
Mr. Mohit Bhardwaj, Adv. for R-2.
Mr. Rajiv Dewan, Adv. for R-4 to 8.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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18.09.2024

1. Learned counsel appearing for the respondent-Corporation submits that a status report has been filed. However, the same is not on record. A copy thereof is handed over during the course of hearing. Learned counsel is directed to ensure that the same is placed on the digital record of the Court.

2. Paragraph nos.3 to 5 of the status report read as under:-

"3. That so as to ascertain the status of the subject property i.e. bearing No. D-63, Khasra No. 813, Harswaroop Colony, Village Fatehpur Beri, New Delhi-110074, the area field staff of Building Department-11 of South Zone / answering Respondent /MCD has inspected the same and also referred to the record available in this regard.

4. That on inspection and referring to the record, status of the property as noticed is detailed herein below:-

i. The subject property is booked for unauthorized construction vide



file No. 265/UC/B-II/SZ/24 dated 11/07/2024 in the shape of Ground floor and First floor, for taking the necessary demolition action u/s 343/344 of DMC Act. The requisite Show Cause Notice vide serial bearing No. 11497 dated 11/07/2024 has also been issued and served upon the owner / occupier with the direction that the alleged unauthorized construction in the subject premises be stopped immediately and submit reply within 03 days, as to why orders of demolition as required u/s 343 of DMC Act should not be passed in respect of the unauthorized construction already carried out and the unauthorized construction, if any, carried out after the issue of Show Cause Notice. The copy of the Show Cause Notice is annexed herewith as **Annexure - A.**

- ii. In response to the aforesaid Show Cause Notice, on receiving the reply on 18/07/2024 from noticee Sh. Mangat Ram and taking note of the submissions / contentions made by the notice, adhering to the principal of Natural Justice, the necessary hearings were accorded vide dated 29/07/2024, 09/08/2024, 20/08/2024 and 29/08/2024 to the noticee/applicant.
- iii. After concluding the aforesaid hearing proceedings, the Competent Authority i.e. Assistant Engineer (Bldg)-II of South Zone MCD vide its reasoned / demolition order dated 11/09/2024 has directed to demolish / remove the unauthorized construction in the shape of First floor and part Second floor within 06 days. The operative para of the aforesaid reasoned demolition order is as under:

“ _____

In view of above, I, Adnan Amir, Asstt. Engineer (Bldg.), South Zone vested with the powers of the Commissioner, MCD U/s 343 (1) read with Section 491 of DMC Act, am of the considered view that the construction, under notice or as booked, in its entirety is without having any legal sanctity and being so is actionable. However, as of now, the existing construction, in the shape of **ground floor** is eligible for extending interim relief/ protection till 31 December 2026 or on the day when the Govt. suppose to comes out with uniform regulations (whichever is earlier). Hence, the undersigned vested with the powers of the Commissioner, MCD U/s 343 (1) read with Section 491 of DMC Act, hereby direct to demolish/ remove the unauthorized construction, in the shape of first and part second floor within six days from the receipt of this order, failing which it will be demolished by the MCD at your risk and cost.

Issued under my hand and seal on this _____ day of September, 2024.

The copy of the aforementioned reasoned demolition order has also communicated / sent to the owner / occupier vide bearing No. D/2015/AE(B)/SZ/2024 dated 11/09/2024 and a copy thereto is annexed



herewith as **Annexure-B.**

5. That further action in respect of the subject property will be taken / carried out in due course of time, as per law.”

3. Learned counsel appearing for the respondent-Corporation submits that after passing of the demolition order dated 11.09.2024, the respondents were expected to demolish/ remove all unauthorized construction, within a period of seven days from the date of passing of the order. According to the learned counsel, the time is expiring today.

4. Learned counsel appearing for private respondent nos.4 to 8, submits that the aforesaid order has not been served upon him and according to him, respondent nos.4 to 8 are subsequent purchasers of the property from respondent No.3.

5. The Court, at this stage, is not required to consider the grievance raised by learned counsel appearing for respondent nos.4 to 8. If the said respondents have any grievance with respect to the action taken by the respondent-Corporation, they shall be at liberty to take recourse in accordance with law.

6. The Court, in the instant writ petition, is only concerned with the prayer made herein and pursuant thereto, the respondent-Corporation has already initiated legal action.

7. Let the respondent-Corporation to continue to take further legal action in accordance with law and to take the controversy to its logical end within a period of six months from today. The same shall, however, be subject to any further directions to be passed by the competent Court/ Tribunal.

8. In view of the aforesaid, the petition stands disposed of.



9. All rights and contentions raised by the private respondents are reserved.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 18, 2024/p