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

+ W.P.(C) 11371/2024 & CM APPL 47206/2024

CHATTAR SINGHPetitioner

Through: Mr. Anshuman, Adv.

versus

DELHI CANTONMENT BOARDRespondent

Through: Mr. Tarveen Singh Nanda, SC with
Mr. Ankur Mishra, Adv.

69

+ W.P.(C) 11542/2024 & CM APPL 47864/2024

RAMESH CHANDERPetitioner

Through: Mr. Pawan Kumar Sharma, Mr.
Praveen Kumar Singh and Mr. Sant
Prakash, Adv.

versus

DELHI CANTONMENT BOARDRespondent

Through: Mr. Tarveen Singh Nanda, SC with
Mr. Ankur Mishra, Adv.

70

+ W.P.(C) 11545/2024

DESHRAJPetitioner

Through: Mr. Pawan Kumar Sharma, Mr.
Praveen Kumar Singh and Mr. Sant
Prakash, Adv.

versus



DELHI CANTONMENT BOARD

.....Respondent

Through: Mr. Tarveen Singh Nanda, SC with
Mr. Ankur Mishra, Adv.

78

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W.P.(C) 12485/2024 & CM APPL. 51917/2024

ATUL TANWAR & ANR.

.....Petitioners

Through: Mr. Abhinav Sharma and Mr. Manish
Tanwar, Adv.

versus

DELHI CANTONMENT BOARD

.....Respondent

Through: Mr. Tarveen Singh Nanda, SC with
Mr. Ankur Mishra, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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09.09.2024

1. This matter was called out for hearing on 16.08.2024, wherein, the Court has passed the following directions:-

"CM APPL. 47205/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.
- 3.

W.P.(C) 11371/2024 & CM APPL. 47206/2024

4. Heard learned senior counsel appearing for the petitioner.
5. Learned senior counsel appearing for the petitioner submits that the petitioner has already resorted to alternative remedy of appeal under Section 340 of the Cantonments Act, 2006 against the orders dated 30.04.2015, 15.07.2015 and 01.08.2024. He, therefore, submits that till his application for grant of stay/suspension is considered by the Appellate Authority, the respondent be restrained from taking demolition action. According to him, the construction in question is atleast as old as 40 years.
6. This Court, at this stage, is neither aware about the exact



mechanism and procedure for pursuing the appeal before the Appellate Authority nor the Court is aware as to how much time normally the Appellate Authority takes in disposing of an interim application.

7. *Notice.*

8. *Learned counsel appearing for the respondent accepts notice.*

9. *He is directed to bring on record the mechanism of disposal of appeal/suspension/stay application before the next date of hearing.*

10. *List on 03.09.2024.*

11. *Till the next date of hearing, the respondent is directed to maintain the status quo as on date.*

12. *The petitioner undertakes that no further construction shall be carried out during the pendency of the instant petition neither the property in question shall be altered in any manner whatsoever.”*

2. On 03.09.2024, various other writ petitions came to be listed alongwith this writ petition and all the matters were adjourned for today, thereby directing the respondent to place on record the Status Report.

3. Learned counsel who appears on behalf of the respondent submits that he has already placed the Status Report on record.

4. A perusal of the Status Report would indicate that the property involved in the instant writ petition is situated in Cantonment, but outside the civil area. Therefore, as per the respondent, the appeal lies before the competent authority which would be Delhi Cantonment Board under Section 340 of the Cantonments Act, 2006 [“the Act”].

5. The Status Report further states that the appeals preferred in W.P.(C) 11371/2024 under Section 340 of the Act were placed before the Board for its consideration on 28.08.2024. The respondent, therefore, will have to prepare the case/file as per the standard operating procedure dated 06.09.2013 and will have to forward the same to the Appellate Authority/Cantonment Board within a period of two weeks.

6. In paragraph Nos.6 to 8, the following averments have been made:-

“6. Since the subject property is outside the civil area, the Competent



Authority to take decision in respect of forwarding appeal U/s 340 of the Act is Delhi Cantonment Board. Accordingly, the appeal preferred by the Petitioner U/s 340 of the Act was placed before the Board for its consideration on 28.08.2024. The Answering Respondent will now prepare the case/ file as per the Standard Operating Procedure dated 06.09.2013 and will forward the same to the Appellate Authority within two weeks. The following documents are required to be sent by the Answering Respondent to the Appellate Authority:

- (a) A summary of the case along with time lines.*
- (b) Cantonment Board Resolution upon noticing the deviation and defining to resolve the same.*
- (c) Notices sent to individual/HOR by President Cantonment Board/Chief Executive Officer.*
- (d) Copy of appeal by the individual against notice by the Cantonment.*
- (e) Para wise comments by the Chief Executive Officer to the appeal, duly supported by documents, sketches and photograph duly endorsed by the President Cantonment Board explaining own point of view.*
- (f) Comments of the Chief Executive Officer.*
- (g) Recommendation of the Chief Executive Officer and President Cantonment Board.*
- (h) Letter intimating date of hearing of appeal to the appellant*
- (i) Receipt/acknowledgment from the appellant of notice as per (d) above.*
- (j) Any other correspondence received from appellant.*

7. After completion of the file, the date of hearing will be fixed by the Appellant Authority and the same will be intimated to the Petitioner. The Petitioner will be heard in person and will be allowed to be accompanied by an Advocate: As per the SOP, the General Officer Commanding-in-Chief will dispose of the appeal after hearing both the parties. The number of hearing that may occur for each case will depend on facts of each case. A copy of standard operating procedure for conducting appeals by the Competent Authority is annexed herewith as Annexure A.

8. The answering Respondent is duty bound and will always comply with the directions as may be passed by this Hon'ble Court in the facts and circumstances on the present matter."

6. It is thus seen that the appeals preferred by the respective petitioners are under active consideration at different stages and are yet to be decided finally.



7. Since the appeal preferred by the petitioners will have to be adjudicated depending upon the facts and circumstances involved in each case, therefore, the Court is of the considered opinion that till the appeals are decided, the petitioners are entitled for protection as was directed by the interim order.

8. Therefore, it is made clear that during the pendency of the appeal, the interim order dated 16.08.2024 shall remain in force in all writ petitions. The appellate authority shall endeavour to decide the appeal without undue delay and with due expedition.

9. Accordingly, the Court disposes of the instant writ petitions reserving all rights and liberties of the parties to be agitated before the Appellate Authority.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 9, 2024

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