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

+ **W.P.(C) 11460/2024 & CM APPL. 47542/2024**

AMIT BHARDWAJ

.....Petitioner

Through: Mr. Madan Lal Sharma, Ms.
Tejaswini Verma, Mr. Vikrant
Malwal, Advocates.

versus

**MUNICIPAL CORPORATION OF DELHI
& ORS.**

.....Respondents

Through: Ms. Shilpa Ohri, ASC for R-1 and
2.
Mr. Kanav Vir Singh, Ms.
Bishwajyoti Pal, Advocates for R-
3.

**CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN**

ORDER

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23.10.2024

1. The petitioner has approached this Court under Article 226 of the Constitution complaining of alleged illegal and unauthorised construction at property No. 364A/2, measuring about 80 sq.yds. situated at village – Chirag Delhi, New Delhi – 110017 [“the subject property”].
2. The Municipal Corporation of Delhi [“MCD”] has filed a status report dated 14.09.2024 in which it is stated as follows:

“That on inspection and referring to the record, the status of the subject property as ascertained is here as under:

i. As per record, in respect of the aforementioned subject property, the owner / builder has obtained Online Sanction Building Plan vide Online ID No. 20013421 dated 09/08/2024



through registered / empanelled architect Sh. Dheeraj Kumar, under 'Saral Scheme'.

ii. The said Sanction Building Plan has been found obtained for the propose of construction of residential building having Stilt floor, Ground floor, First floor, Second floor and Third floor. The copy of the Sanction letter alongwith copy of Sanction Building Plan are annexed herewith as Annex—A (Colly).

iii. On receiving the instant Writ Petition pursuant to order dated 20/08/2024 of this Hon'ble Court, the Sanction Building Plan so obtained has been checked and examined. During its examination it has been noticed that the-case does not qualify for sanction of building plans under the Notification dated 17/01/2011 / Master Plan — 2021 read with relevant policy framed by Town Planning Department and allied circular with violations committed by the applicant / architect in the following manner:

“Non-procurement of NOC from Archeological Survey of India (ASI)”

As per Color Code Zonal Map (CCZM) of Archaeological Survey of India; uploaded on EoDB Portal of MCD: the property in question falls within the regulated limit of a centrally protected monument of ASI, hence it is the prerequisite condition to get the NOC from authority / department concerned.

Apparently, while granting sanction the Architect herein has transgressed or breached the powers entrusted vide office order No. D- 95/Addl.Cm.(Engg)/ SDMC/2016/SE(B)/HQ dated 29/07/2016."

Noticing the above and considering the same, requisite Show Cause Notice bearing No. D/996/DC/SZ/Bldg-1/2024 dated 13/09/2024 for revocation of Sanction Building Plan u/s 338 of DMC Act — 1957 has been issued to the applicant and architect who accorded the aforesaid Sanction Building Plan since the same has been obtained by suppression, concealment and misrepresentation of material facts as detailed in the said Show Cause Notice. The copy of the Show Cause Notice dated 13/09/2024 is annexed herewith as Annexure —B.

iv. During inspection of the subject property it has also been noticed by the area field staff that pursuant to the aforesaid Sanction Building plan presently the owner / builder has erected the reinforcement for construction of column and the work has been found lying stopped-at the site. However, the department has also issued a Stop work letter to the owner / builder with a



copy of the concerned SHO PS Malviya Nagar, New Delhi with the request that the unauthorized construction be stopped and workmen present at site / property in question be removed and construction material including the tools, machinery, etc. be seized. The photographs showing the present status of the site / subject property alongwith stop work letter are annexed herewith as Annexure —C (Colly).

v. It goes without saying that the area filed staff of Building Department-I of South Zone is also keeping a strict watch and vigil of the site in question so that no further fresh construction will be carried out.

5. That further action shall be taken upon finalization of the revocation proceedings as initiated u/s 338 of DMC Act 1957 as above, as per law.”

3. Mrs. Shilpa Ohri, learned counsel for MCD, states that the MCD is in the process of hearing the owners/occupants of the subject property with regard to the proceedings for revocation of the sanction plan. Upon consideration of their representation, the decision will be taken in accordance with law and further consequential action will also be taken as expeditiously as possible, subject to availability of police force.

4. In view of the aforesaid status report, it appears that MCD is in *seisin* of the grievance agitated by the petitioner is taking action in that regard. No further orders are, therefore, required in this writ petition, which stands disposed of.

5. It is made clear that the aforesaid submissions are recorded without prejudice to the rights and contentions of any owners/occupants of the subject property, whose rights and remedies, available in law, are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements.

PRATEEK JALAN, J

OCTOBER 23, 2024/‘Bhupi’/