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

+ **W.P.(C) 11953/2024, CM APPL. 49750/2024**

RAJIV MADAN

.....Petitioner

Through: Mr. Sanam Malhotra, Adv.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Prabhat Kumar, Mr. Ranjeet Kumar, Advs for R-1.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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29.08.2024

CM APPL. 49751/2024(Ex.)

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

W.P.(C) 11953/2024, CM APPL. 49750/2024

1. The petitioner in the instant writ petition has prayed for the following reliefs:

“Call for the record of the case; peruse the same and thereafter, issue a Writ of certiorari or any other writ, order or directions thereby quashing the impugned sealing proceedings and proposed sealing actions of the respondents initiated under Section 345-A of the DMC Act against the present petitioners, being the same absolutely illegal, arbitrary, discriminatory and malafide;

OR/ ALTERNATIVELY;

(b) Issue a Writ of mandamus or any other writ, order or directions thereby directing the respondents not to seal the petitioner's shops



immediately on passing of the Sealing Orders, if any, under Section 345-A of the DMC Act, 1957 or under any other provisions of law and not to execute and implement such orders, at least, for a period of four weeks from the dates of orders, enabling the petitioner to avail their legal recourse and remedies against such sealing orders, if any, passed by the respondents in respect of the petitioner's respective shop.

(c) Any other necessary writ, order or directions, as may be deemed fit and proper by this Hon'ble Court, under the facts and circumstances of the case, may also be issued and passed, in the interest of justice."

2. The facts of the case would indicate that sealing order dated 31.12.2021 came to be passed against the property bearing Shop no. 19, Old Lajpat Rai Market, Chandni Chowk, Delhi-110006. The said order was subject matter of challenge before Appellate Tribunal-Municipal Corporation of Delhi ["AT-MCD"] and in terms of order dated 10.11.2023, the AT-MCD found that survey report was not considered by the Dy. Commissioner, while passing the sealing order and accordingly, the impugned order therein was set aside, remitting back the matter to the quasi-judicial authority of MCD for deciding the same afresh.

3. It is thus seen that in pursuance of the order passed by AT-MCD on 10.11.2023, the quasi-judicial authority heard the petitioner on 08.08.2024 and reserved the matter for the final order. Admittedly, till date the final order has not been passed post remittance by the AT-MCD.

4. Learned counsel who appeared for the petitioner points out that in various writ petitions earlier the Court provided for a stay of the operation of any adverse order for a period of seven days and therefore, he submits that the same protection be granted to the petitioner in the present case as well.

5. I have considered the submissions made by the learned counsel for the petitioner and am unable to accept the same. Till date, no final order has



been passed by the MCD. It cannot be presupposed that the proposed order is going to be adverse to the petitioner. In any case, if an adverse order is passed by the MCD, the petitioner would always be entitled to take necessary recourse in accordance with the law.

6. At this stage, no case for passing any pre-emptive direction is made out, accordingly, the instant writ petition stands dismissed.

7. Needless to state that if any adverse order is passed against the petitioner, the same shall be promptly supplied to the petitioner to enable him to take necessary recourse in accordance with the law.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 29, 2024/KG