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

+ **W.P.(C) 12148/2024 , CM APPL. 50506/2024**

SWEETY

.....Petitioner

Through: Mr. Rajesh Yadav, Sr. Adv. with Mr.
Aditya Raj, Adv.

versus

**MUNICIPAL CORPORATION OF DELHI
& ORS.**

.....Respondent

Through: Ms. Ira Singh, Adv for R-2 & 3.
Mr. G. S. Oberoi, SC with Mr. Ankur
Sharma, Mr. J.S. Oberoi, Advs.
Mr. Ajjay Arora, Mr. Kapil Dutta,
Advs.
Mr. Amit Srivastava, Ms. Uzma
Qureshi, Mr. Pradeep, Adv.
Ms. Mrinalini Sen, SC with Ms.
Devpriya Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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18.09.2024

1. The status report dated 18.09.2024 has been handed over during the course of hearing. Let a copy thereof be placed in the digital record of the Court. Paragraph nos.2 to 15 of the status report read as under:-

"2. Ms. Sweety preferred to file this writ petition before Hon'ble High Court of Delhi praying therein to demolish the illegal and unauthorized construction at property No. D-100, Main Road, Laxmi Nagar, Delhi-110092 and restrain the Respondent No. 5 from raising further illegal construction.

3. That, it is to inform that earlier the then Junior Engineer,



concernea had inspected the Property bearing No. D-100, Main Road, Laxmi Nagar, Delhi on 06.02.2024. During inspection it came to notice that the owner of the property constructed Ground Floor, First Floor & Second Floor without prior permission from the Department. That is to say that the unauthorized construction in the shape of Ground Floor, First Floor and Second Floor was booked vide file dated 25/B/UC/SS/2024 dated 06.02.2024.

4. That a Show Cause Notice dated 06.02.2024 was issued to the owner/builder under sections 344(1)/343 of Delhi Municipal Corporation Act, 1957 addressed to Mr. Bobby Gupta & Navin Gupta/Owner/Builder/Occupier directing therein to show cause within 03 days as to why orders of demolition as required u/s 343 of the Act should not be passed in respect of unauthorized construction already carried out.

5. That, the owner/builder failed to submit any reply to the show cause notice within the stipulated period of time. Therefore, a demolition notice dated 16.02.2024 was issued by Respondent /MCD under section 343 of the Delhi Municipal Corporation Act, 1957 to Mr. Bobby Gupta & Navin Gupta/Owner/Builder/Occupier wherein it was directed to demolish the said unauthorized construction within 06 days failing which the department itself carry out demolition action and expenditure so incurred for carrying out demolition action would be recovered as per provision of DMC Act, 1957.

6. That, further as the Addressee/Owner/ Builder failed to demolish the unauthorized construction at the afore-mentioned property within the stipulated time period as per the demolition notice, demolition order was passed on 29.02.2024 by the Respondent/MCD in accordance with law.

7. That, it is also to intimate that the Junior Engineer concerned again inspected the site in question on 18.03.2024 and the owner (5) continued to raise further unauthorized construction in the form of Third Floor & Fourth Floor, therefore the said violation has been further booked vide unauthorized construction booking file No. 52/B/UC/SS/2024 dated 18.03.2024 and after following due process of law order to demolish the unauthorized construction was passed under relevant section of Delhi Municipal Act, 1957. Moreover, This department also requested to concerned Station House Officer, Police Station Laxmi Nagar, Delhi u/s 344 (2) of the Act to stop further construction and removal of the workmen /labour present in the premises and seizure of building material, tools and machinery.

8. That, this department also passed the sealing order under section 345-A of the Delhi Municipal Act, 1957 against the impugned property after following due process of law.

9. That, pursuant to the demolition /sealing orders, the department has fixed action against the impugned property on 24.04.204 but the



same could not be executed due to non-availability of police force. However, in an attempt to comply with demolition/sealing orders, the department has again planned actions against the property on 09.05.2024, 16.05.2024, 20.05.2024 & 27.05.2024 and the same was could not be executed due to either shortage of time and no availability of police assistance.

10. That, further the department planned special demolition/seal action 11.06.2024 and the same executed wherein 1 RCC panel was demolished at Ground Floor roof slab and 01 RCC panel was demolished at Second Floor roof slab and similarly the action was taken at Fourth Floor. In addition the department sealed the main entrance of Fourth Floor of the property. Thereafter, the requisition to Station House Officer, PS Laxmi Nagar, Delhi was sent vide letter dated 11.06.2024 to keep strict watch and ward over the above said sealed premises so that the sealed property/portion of the property may not be tampered with.

11. That in furtherance, the department again taken demolition action on 13.06.2024 in form of cutting reinforcement of 1 panel of Ground Floor and 1 panel of Second Floor roof.

12. That, it is also to inform that the department again scheduled demolition/sealing action on 18.06.2024 but the respondent/MCD unable to execute actions on account of non-availability of police force.

13. That, the department again scheduled demolition /sealing action on 03.09.2024 but the same could not be executed due to shortage of time.

14. That, Sh. Chirag Gupta & Ors. /Owner/Builder/Occupier has filed an appeal before Appellate Tribunal, MCD vide appeal No.733/2024 & 734/2024. Ld. Tribunal, vide its order dated 06.09.2024 has directed that status quo be maintained in respect of the property in question and no coercive action be taken against the subject property and matter is now listed for 25.10.2024. Copy of order dated 06.09.2024 is annexed as annexure R-1 (colly).

15. That accompanying annexures true copies of their originals.”

2. It is, thus, seen that the respondent-Corporation initiated legal action in accordance with law, however, on account of interim order passed by the Appellate Tribunal-Municipal Corporation of Delhi (AT-MCD) dated 06.09.2024, the Corporation's hands seem to be tied.

3. The petitioner submits that the private respondent has not disclosed the correct facts and situation and has obtained the interim order. However,



the aforesaid position can be looked into by the AT-MCD and the petitioner is granted liberty to join the proceedings before the AT-MCD.

4. If the petitioner feels that there is any part of the property which is not covered under the proceedings pending before the AT-MCD, she shall be at liberty to approach the Special Task Force constituted by Delhi Development Authority.

5. With the aforesaid observation, the petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 18, 2024/KG