



\$~87

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

+ **W.P.(C) 12518/2024, CM APPL. 52022/2024**

GULSHAN

.....Petitioner

Through: Mr. Arun Kumar Verma, Adv

versus

**THE MUNICIPAL CORPORATION OF DELHI
& ORS.**

.....Respondent

Through: Mr. Ashutosh Gupta, Mr. Abhinav
Shokeen, Advs.
Mr. Amit Sahni, Mr. Parth Sharma,
Advs.
Mr. Saurabh Gupta, SPC with Ms.
Tanisha Verma, G.P for R-2.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **18.09.2024**

1. The respondent-Corporation is directed to place the status report in the digital record of the Court. A copy thereof has been handed over during the course of hearing.
2. A perusal of the status report would indicate that the respondent-Corporation had already initiated legal action. Paragraph nos.11 to 16 of the status report read as under:-

"11. That after issuance of the Show Cause Notice dated 05.09.2024 the same was served upon the owner/builder by way of sending the same by speed post and also by way of affixing the same on the subject property. The photographs of affixing the Show Cause Notice dated 05.09.2024 and the extent of unauthorized construction in the subject



property are annexed as ANNEXURE-C (Colly).

12. That it is pertinent to mention here that as per the mandate of section 343 of the Delhi Municipal Corporation Act, 1957, no order of demolition can be passed against the unauthorized construction, without issuing the Show Cause Notice and without following the principals of natural justice, including the right of hearing, but unfortunately, the said provisions is being misused by many builders/owners, who continues to raise unauthorized construction, during the intervening period of issuance of Show Cause Notice till the passing of the demolition order. In order to prevent them from raising further unauthorized construction, section 344 (2) of the Delhi Municipal Corporation Act, 1957, provides issuance of work stop notice to the concerned police officer to take measures including removal of labours, their assistant, workmen from the premises and further by seizure of their machinery, tools and equipment's. The said compliance is necessary to prevent further unauthorized construction in the premises. The copy of the work stop notice dated 06.09.2024 issued Under Section 344(2) of the Delhi Municipal Corporation Act, 1957 is annexed ANNEXURE-D.

13. That in order to stop the unauthorized construction being undertaken by Sh. Nanhe Ram/Owner/Builder the respondent/MCD further issued a letter dated 06.09.2024, addressed to the Asstt. Vice President/Central Coordinator BRPL for MCD, Room No. 201 & 203, BSES Sub Station Building, Adchini Aurbindo Marg, New Delhi, ACE (M)- II, (South), Delhi Jal Board and Sub-Registrar-V, Office of SR-V, Mehrauli Tehsil Building, Mehrauli, New Delhi for the disconnection of electricity and water supply in the subject property was duly sent to the officials of the above mentioned departments for necessary compliance. The copy of the letter dated 06.09.2024 for electricity disconnection and water supply disconnection is annexed as ANNEXURE-E.

14. That since, no reply to the said Show Cause Notice was filed by Sh. Nanhe Ram/Owner/Builder, within the stipulated period of 3 days, a demolition order dated 13.09.2024 issued Under Section 343 of the Delhi Municipal Corporation Act, 1957 has already been passed against the said booked unauthorized construction in the shape of Ground Floor and First Floor without sanction building plan qua the subject property. The copy of the demolition order dated 13.09.2024 directing owner to demolished the booked unauthorized construction within 06 days is annexed as ANNEXURE-F.

15. That the respondent Municipal Corporation of Delhi shall planned



action in case owner did not comply with demolition order.

16. That the present petition is not maintainable, as there is no personal grievances or injury, which has been suffered by the petitioner."

3. In view of the aforesaid, the respondent-Corporation is bound by the stand taken in the status report and it is further directed to continue the necessary action in accordance with law.
4. With the aforesaid observation, nothing more is required to be adjudicated. Accordingly, the petition stands disposed of alongwith the pending application.
5. The petitioner shall be at liberty to approach the Special Task Force if his grievance is not fully mitigated.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 18, 2024/KG