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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1888/2024 & CM APPLs. 7891/2024, 59805/2024

ANAND SINHA AND ANR.

.....Petitioners

Through: Mr. Parivesh Singh, Mr. Prem
Parkash, Mr. Abhay Singh
Chauhan, Advocates.

Versus

TEJ PAL SINGH AND ORS.

.....Respondents

Through: Mr. C.P. Vig, Mr. Vijay Singh,
Ms. Ashwini Kumar, Ms. Aarya
Kumar Jha, Advocates for R-1.
Ms. Mehak Nakra, ASC with Mr.
Bhavya Nakra, Mr. Aditya Goyal,
Ms. Gunjan, Advocates for R-4.
SI Lal Chand, PS- Vasant Kunj,
South.
Mr. Kapil Dutta, Mr. Vansh
Luthra, Advocates for MCD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **18.12.2024**

1. The petitioners, who are residents of *Flat No. 286, Second floor, B Block, Vasant Kunj Enclave, New Delhi – 110070*, have filed this writ petition under Article 226 of the Constitution, complaining of alleged unauthorised construction in the parking area and terrace of the building on the aforesaid property.

2. It is stated in the writ petition that one office, one commercial shop, one room with a bathroom and kitchen, one small store room, and an additional bathroom have been constructed in the parking area, and two one room apartments have been constructed on the terrace of the building



in question without prior approval.

3. The petitioners claim to have purchased the aforesaid flat from respondent No. 1 and are residing therein. Paragraph 4 of the petition refers to execution of a general power of attorney, agreement to sell, and possession letter in May, 2017, and paragraph 5 opens with the averment that respondent No. 1 handed over the flat “in this month”. The possession letter dated 29.05.2017 has also been annexed to the writ petition as Annexure P-5. A contrary averment is however found in paragraph 6 of the writ petition, which states that the petitioners moved into the aforesaid property on 19.11.2015. It is evident that there was some controversy between the petitioners and respondent No. 1 as to the condition of the flat, which led to correspondence between the parties, although Mr. Parivesh Singh, learned counsel for the petitioners, states that no suit has been instituted by the petitioners against respondent No. 1. Instead, the petitioners have filed this writ petition complaining of alleged illegal and unauthorised construction in the parking and terrace of the building in question.

4. As far as this aspect is concerned, Municipal Corporation of Delhi [“MCD”] has filed two status reports. In the first status report dated 03.05.2024, MCD has stated that the impugned building consists of the ground floor, first floor, second floor, third floor, fourth floor and part fifth floor. According to MCD, demolition action was taken partially in the year 2015, and the impugned building was also sealed. Upon finding the seal to have been tampered with, the impugned building was again booked on 18.01.2024, and a vacation notice was issued to the owners/occupiers of the building.



5. Mr. Kapil Dutta, learned counsel for MCD, states that further demolition action has been taken pursuant to a demolition order issued on 30.01.2024. A copy of the same has been handed up in Court, and is taken on record. It refers to unauthorised construction in the ground floor, first floor, second floor, third floor, fourth floor and part of the fifth floor of the impugned building, and is in continuation of booking of the building from the year 2015. Partial demolition action/sealing action has been taken on 22.08.2024, 23.08.2024, 17.09.2024 and 09.10.2024.

6. Mr. Dutta further submits that an appeal has also been filed by respondent No. 1 against the demolition order, which is pending before the Appellate Tribunal for MCD and is next listed on 24.02.2025. As there is no stay order, Mr. Dutta states, upon instructions, that further action will be taken by MCD as expeditiously as possible, and in accordance with law, subject to availability of police force and upon lifting of Graded Response Action Plan-IV restrictions.

7. In view of the above submissions on behalf of MCD, no further orders are required in this writ petition, which stands disposed of, alongwith pending applications.

8. Mr. Singh raises a grievance that the petitioners' flat has also been subjected to these orders without any notice having been issued to them. However, it is evident from the writ petition itself that, even at the time the petitioners purchased the property, they found that it had been sealed by MCD. In any event, a copy of the show cause notice dated 18.01.2024 and of the demolition order dated 30.01.2024 have been handed over in Court to Mr. Singh, to enable the petitioners to take such remedies as available to them in law.



9. It is made clear that these submissions have been recorded without prejudice to the rights and contentions of the owners/occupiers of the impugned building, whose rights and remedies are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements, and bearing in mind the Supreme Court judgment dated 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [W.P. (C) 295/2022 and connected matters].

10. In the event the petitioners have any further grievances with regard to unauthorised construction, they are at liberty to approach the Special Task Force [“STF”], constituted by the Supreme Court vide orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [*M.C. Mehta vs Union of India & Ors.*]. This direction is made with reference to the decisions of the Division Bench in *Devender vs. Govt. of NCT of Delhi and Ors.* [order dated 20.09.2018 in W.P.(C) 1807/2018], *Sneh Lata & Anr. vs. North Delhi Municipal Corporation & Anr.* [order dated 08.04.2019 in LPA 245/2019], *Fazruddin vs. DDA & Ors.* [order dated 23.04.2019 in WP (C) 4649/2017], and in *Himanshu vs. East Delhi Municipal Corporation & Anr.* [order dated 31.07.2023 in W.P.(C) 8104/2022], and decisions of Coordinate Benches in *Abdul Gaffar vs South Delhi Municipal Corporation & Ors.* [order dated 28.02.2019 in W.P.(C) 1773/2019] and *Rashiduddin Malik vs. MCD & Ors.* [order dated 02.09.2024 in WP (C) 12102/2024].

PRATEEK JALAN, J

DECEMBER 18, 2024/“Bhupi/AD”/