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

+ W.P.(C) 13214/2024

FAZIL

.....Petitioner

Through: Mr. Mohd. Zohaib, Mr. Amaan
Ullah & Mr. M. Shahrukh,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI THROUGH
ITS COMMISSIONER, & ORS.

.....Respondents

Through: Mr. Ajjay Aroraa & Mr. Kapil
Dutta, Advocates for MCD.
Mr. Hemant Choudhary, Ms. Pooja
Marwah, Ms. Jyoti Mandal, Mr.
Zeeshan Haider & Mr. Vaijay
Kumar Tiwari, Advocates for R-4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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23.10.2024

1. The petitioner has filed this petition under Article 226 of the Constitution complaining of alleged unauthorised and illegal construction in property No. 2503-2504, Kucha Baqa Ullah Khan, Tiraha Behram Khan, Darya Ganj, Delhi-110002 [“the subject property”].

2. The status report dated 21.10.2024 has been handed over by Mr. Kapil Dutta, learned counsel for Municipal Corporation of Delhi [“MCD”], in which it is stated as follows:

“3. That it is respectfully submitted that the property bearing no. 2503-2504, Kucha Baqa Ullah Khan, Tiraha Behram Khan, Darya Ganj, Delhi-110002 was inspected on 22.08.2024 and upon noticing unauthorized construction in the shape of ground floor, first floor, second floor and third floor, the same was booked vide file no. 176/UC/75/B-II/CSPZ/2024 dated 22.08.2024 under section 343 & 344(1) of the DMC. A show cause notice dated 22.08.2024 was issued



*to Sh. Gulzar Ali/Owner/Builder/Occupier to show cause as to why demolition order be not passed in respect of aforesaid unauthorized construction. A copy of show cause notice dated 22.08.2024 is annexed herewith as **Annexure-A**. It is submitted that the noticee has filed reply and as such personal hearing was granted to the noticee for 26.09.2024 by the quasi judicial authority. The hearing dated 26.9.2024 was attended by Sh. Hemant Chaudhary, representative of Sh. Gulzar Ali who sought another date of hearing stating that Sh. Gulzar Ali is not able to attend the hearing due to death of his mother. The hearing was adjourned to 15.10.2024 wherein Sh. Gulzar Ali appeared and sought some more time to submit some more documents relating to the property in question. The hearing has been adjourned to 08.11.2024. Further action in the matter shall be taken after conclusion of proceedings under section 343 & 344 of the DMC Act by the quasi judicial authority."*

3. Mr. Dutta states that the demolition order will be passed after considering the representation of the owners/occupants of the property and completing a hearing within eight weeks from today, if necessary, and further consequential action will be taken, subject to availability of the police force.
4. In view of the above, it appears that MCD is seized of the issue regarding illegal construction on the subject property. 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.
6. In the event the petitioner has any further grievance with regard to unauthorised construction, he is 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

OCTOBER 23, 2024/‘pv’/