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

+ **W.P.(C) 13386/2024 & CM APPL. 58340/2024**

KULWANT SINGH BHASIN

.....Petitioner

Through: Mr. M.S.Bammi, Mr.Aarushi Aggarwal, Mr.Rishabh Goel, Mr.Imanjeet Singh Bawa and Ms.Suman Kaushik, Advocates with petitioner in person.

versus

THE COMMISSIONER MCD AND OTHERSRespondents

Through: Mr. Neeraj Kumar, ASC for MCD. Mr. Ankur Gupta, SPC with Mr. Anubhav Tyagi and Ms. Lipi Garg, Advocates for R-3. Mr. Tushar Sannu, Advocate for DDA with Mr. Nikhil Kadha, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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04.10.2024

1. The writ petitioner has filed CM APPL. 58340/2024 for an order of injunction against respondent No.5 from continuing alleged illegal and unauthorised construction at property *No. D-3, Fateh Nagar, Jail Road, New Delhi-110018* [“subject property”].
2. Respondent No.5 has not yet been served in the writ petition, but having regard to the order that I propose to pass, notice upon respondent No.5 is not required at this stage. With the consent of learned counsel for the appearing parties, the writ petition is taken on board.
3. By way of this writ petition, the petitioner seeks action against

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construction in the subject property.

4. Mr. Neeraj Kumar, learned counsel for the Municipal Corporation of Delhi [“MCD”], states that the construction is being undertaken pursuant to a building plan which has been sanctioned under Section 336 of the Delhi Municipal Corporation Act, 1957 [“the Act”] on 23.07.2024. A copy of the sanction letter has been handed up in Court and is taken on record.

5. However, Mr. Kumar submits that an inspection has been carried out, and some deviation from the sanctioned building plan has been found at the stilt, ground, first and second floor with projection on municipal land. MCD has issued a show cause notice to the owner of the property on 19.09.2024, a copy whereof has also been handed up in Court and is taken on record. MCD proposes to consider the reply, if any, received from the noticees, and take further action available to it in law within the next two weeks, subject to availability of police force, if required.

6. In view of the aforesaid submissions on behalf of learned counsel for MCD, no further orders are required in this writ petition, which stands disposed of.

7. It is made clear that the aforesaid submissions have been recorded without prejudice to the rights and remedies of respondent No.5, or any other owners/occupants of the subject property. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements.

8. In the event the petitioner has any further grievance, with regard to the sanctioned plan, it may approach the Appellate Tribunal for MCD under Section 347 B of the Act. If the petitioner has any grievance to the



effect that the construction has not been carried out in accordance with the sanctioned plan, he may 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.*]. The STF is directed to take a decision on the petitioner’s application within two weeks thereafter. 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].

9. The writ petition stands disposed of.

10. The next date of hearing, i.e., 22.10.2024, stands cancelled.

PRATEEK JALAN, J

OCTOBER 4, 2024
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