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

+ **CONT.CAS(C) 1536/2024**

M/S B.A. PROPERTIES LLP & ORS.

.....Petitioners

Through: Mr. Arjun Singh Bhati, Mr.
Abhinav Nagar, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Babar Mahmood, SC with Mr.
Ammar Ammad, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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25.09.2024

CM APPL No 56547/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CONT.CAS(C) & CM APPL No 56546/2024 (stay)

1. The petitioners have filed this contempt petition alleging violation of an interim order dated 10.01.2022 passed by this Court in W.P.(C) 256/2022. The writ petition remains pending and is next listed on 12.12.2024.

2. The writ petition is directed against an order dated 07.12.2021, issued by Municipal Corporation of Delhi ["MCD"] under Section 345A of the Delhi Municipal Corporation Act, 1957 ["the Act"], directing sealing of the basement, ground and first floor of the petitioners' property (Plot bearing no. 26, Pusa Road, WEA, Karol Bagh, New Delhi), the said order was on the ground that a commercial activity was being carried out.

3. By the order dated 10.01.2022, the Court directed as follows:

"12. In the meantime, subject to petitioner depositing a sum of Rs. 12,25,000/- towards additional FAR charges for basement as claimed



by the Corporation in their letter dated 12.08.2021 and an additional amount of Rs.10,50,000/- towards parking charges, the first floor of the subject property be also de-sealed by the Corporation.

13. It is clarified that the first floor shall be de-sealed forthwith on deposit of the above referred amounts by the petitioner. On deposit of the same, no further coercive action shall be taken against the property of the petitioner till the next date of hearing.

14. This deposit and de-sealing would be without prejudice to the rights and contentions of the parties.”

4. By the last order dated 11.07.2022, it was directed that the interim order would continue until the next date of hearing.

5. It is alleged by the petitioners that, despite the aforesaid order, MCD has issued a notice dated 04.12.2023, alleging that the first, second, third and fourth floors of the property are being used as a coaching centre, and therefore directed the petitioners to show cause as to why the premises should not be sealed. The petitioners replied to the show cause notice on 06.12.2023 and 09.09.2024. In the meanwhile, MCD has also issued a notice dated 02.09.2024 for a hearing on 05.09.2024. However, learned counsel states that the petitioners could not attend the hearing as the notice was received after the date of hearing.

6. Having heard learned counsel for the parties, I am of the view that action under the Contempt of Courts Act, 1971, is not warranted at this stage. The order, in so far as it prevails to second, third and fourth floors of the property, cannot be the subject matter of the contempt proceedings, as the writ petition pertains to a notice for the basement, ground and first floor of the property. As far as the first floor is concerned, no sealing order has yet been passed. The petitioners have brought the order of this Court dated 10.01.2022, to the attention of the MCD and MCD is directed to take the said order into account, before passing any final order under



Section 345A of the Act in respect of the petitioners' property. If Any final order is passed under Section 345A of the Act, that would also be appealable before the Appellate Tribunal for MCD, under Section 347B of the Act.

7. In view of the aforesaid circumstances, the contempt petition is disposed of with the following directions:

- A. The concerned Deputy Commissioner of MCD is directed to give a personal hearing to the petitioners' representative on 30.09.2024 at 12:00 noon, in lieu of the hearing which was scheduled on 05.09.2024.
- B. The respondents may thereafter pass an order after due consideration of the replies submitted by the petitioners.
- C. In the event the respondents pass an order for sealing under Section 345A of the Act, the petitioners will be at liberty to take their statutory remedies under Section 347B of the Act.
- D. To enable the petitioners to take their statutory remedies, the order of sealing will not be implemented for a period of ten days after service thereof upon the petitioners.

8. It is not considered appropriate to proceed in contempt, at this stage, in view of the fact that no final order has been passed, in respect of the first floor of the premises. If so advised, the petitioners may file a fresh contempt petition, if such an order is passed, which will be considered on its own merits.

PRATEEK JALAN, J

SEPTEMBER 25, 2024/“Bhupi”/