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

+ W.P.(C) 13923/2024 & CM APPL. 58265/2024

MOHD NASEEM

.....Petitioner

Through: Mr. Yoginder Singh Rohilla,
Advocate alongwith Petitioner in
person.

versus

INDUS TOWER LTD AND ORS

.....Respondents

Through: Mr. Vishal Raj Sehijpal, Standing
Counsel with Ms. Priyanka Handa,
Advocate for MCD.

Mr. Susheel Raja, SPC with Mr.
Dushyant Pratap Singh, G.P. for R-
3 & 4.

Mr. Ankur Sood, Advocate for R-
5.

Mr. Manish Srivastava, Mr. Moksh
Arora, Mr. Santosh Ramdurg and
Mr. Yash Srivastava, Advocates
for R-6.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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03.10.2024

1. The petitioner who claims to be a resident of property bearing No. 2576, 4th Floor, Katra, Jhafoor Baux, Ajmeri Gate, Mohalla Niyariyan, Delhi - 110006, has filed this petition in respect of installation of a cellular/mobile tower and allied equipment at property bearing No. 2530, Katra Kamil Khan, Mohalla, Niyariyan, behind G.B. Road, Delhi-110006 [“subject property”]. The petitioner also seeks directions to the



Municipal Corporation of Delhi [“MCD”] to remove or demolish illegal and unauthorised construction in the subject property.

2. As far as the allegations with regard to the mobile tower is concerned, the petitioner accepts that the MCD has granted permission for installation of the tower. A copy of the permission dated 14.06.2023 has been annexed to the writ petition.

3. Mr. Yoginder Singh Rohilla, learned counsel for the petitioner, states that some other residents of the locality had challenged the aforesaid permission, by filing a civil suit [CS No. 1271/2023] in the District Court, Tis Hazari. The District Court has dismissed the suit by an order dated 24.09.2024, on an application filed by the infrastructure company, under Order VII Rule 11 of the Code of Civil Procedure, 1908.

4. Learned counsel for the respondents state that the present writ petition is based on the same representation as the suit in question.

5. By order dated 11.04.2023 in W.P.(C) 3113/2022 and order dated 16.11.2023 in W.P.(C) 6354/2023, this Court has held that a challenge to permission for installation of a mobile tower can be instituted before the Appellate Tribunal for the MCD [“ATMCD”], under the Delhi Municipal Corporation Act, 1957. In view of the above position, the present writ petition is dismissed, with liberty to the petitioner to approach the ATMCD.

6. The rights and contentions of the parties, including the contention of the respondents based upon the order of the Civil Court, are reserved.

7. As far as the complaint of unauthorised construction is concerned, the petitioner is at liberty to approach the Special Task Force, 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 3, 2024/MR/