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

+ W.P.(C) 14034/2024, CM APPL. 58754/2024 & CM APPL. 58755/2024

BIJENDER KUMAR KARHANAPetitioner

Through: Mr. Manendra Mishra, Mr.
Devender Singh Khatana, Ms.
Madhavi Yadav and Mr. Tilak
Angra, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI
& ORS.

.....Respondents

Through: Mr. Ashutosh Gupta, ASC for
MCD.
Ms. Ritu Reniwal, SPC with Mr.
Mahendra Kumawat, Advocates
for R-2 to 4.
Mr. Ashish Gupta, Ms. Pooja
Gupta, Mr. Sachin, Advocates for
R-5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

07.10.2024

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1. The petitioner has approached this Court, under Article 226 of the Constitution, complaining of alleged illegal construction at *Plot No.29, Shivaji Marg, New Delhi-110015* [“subject property”]. It is alleged that the construction is being carried out at the instance of respondent No. 5 herein.

2. Mr. Ashutosh Gupta, learned counsel for the Municipal Corporation of Delhi [“MCD”], who appears on advance notice, states



that the subject property has been inspected and unauthorised construction having been found, a show cause notice was issued to the owners/occupants of the subject property on 12.08.2024, and a demolition order has been passed on 23.08.2024. He submits that appropriate action in accordance with law will be taken by the MCD as expeditiously as possible and in any event within eight weeks from today, subject to availability of police force.

3. Mr. Ashish Gupta, learned counsel for respondent No.5, who is also present on advance notice, submits that the demolition order has not been served upon him and action against the property in question be kept in abeyance, for a period of two weeks from today, in order for him to approach the Appellate Tribunal for Municipal Corporation of Delhi [“ATMCD”].

4. Learned counsel for the petitioner, on the other hand, submits that construction is carrying on at a fast pace and seeks an immediate halt on the construction activity.

5. Having heard the learned counsel for the parties, for the present, respondent No.5 or any other owner/occupant of the subject property, is at liberty to approach the ATMCD within a period of two weeks from today. MCD is directed not to take action in terms of the demolition order for a period of two weeks and will take action thereafter, subject to any orders passed by the ATMCD.

6. Mr. Ashish Gupta also undertakes that no further construction activity will be carried on at the subject property for a period of two weeks from today. An undertaking to this effect on an affidavit of respondent No.5, be filed within two days.



7. Mr. Ashutosh Gupta states that the petitioner's property is itself unauthorised and has also been booked for unauthorised construction. It is made clear that the MCD is free to proceed in accordance with its statutory powers in respect of any property, including that of the petitioner.

8. In view of the above, no further orders are required in this writ petition, which stands disposed of, alongwith pending applications.

9. 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.

PRATEEK JALAN, J

OCTOBER 7, 2024
SS/