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

+ **W.P.(C) 14157/2024**

M. P. MISHRA

.....Petitioner

Through: **Dr. M.K. Gahlaut & Ms. Himanshi
Gahlaut, Advocates.**

versus

**MUNICIPAL CORPORATION
OF DELHI AND ORS**

.....Respondents

Through: **Mr. Raghvendra Upadhyay,
Advocate for MCD with Mr.
Vaibhav Tripathi, Mr. Chandra
Kisore Yadav & Ms. Pratibha Jain,
Advocates. [M:-9818720615]**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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07.10.2024

CM APPL. 59261/2024*(for exemption)*

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 14157/2024

1. The petitioner has approached this Court under Article 226 of the Constitution, in respect of two grievances:-

- a. Against a vacation notice dated 04.09.2024 issued to the petitioner in respect of his property No. 297, Gali No. 13, A Block, Part-VI, Sonia Vihar, Delhi – 110094.
- b. Complaining of alleged unauthorised construction in the property



of respondent No. 3 [A-186, Gali No. 5, Block A-6, Near Gym Club, Sonia Vihar, Delhi - 110094].

2. As far as the first grievance is concerned, Mr. Raghvendra Upadhyay, learned counsel for the Municipal Corporation of Delhi [“MCD”], appears on advance notice, states that respondent No. 3 had filed W.P.(C) 16272/2023 before this Court against unauthorised construction in the petitioner’s property. The writ petition was disposed of by an order dated 18.12.2023, recording the MCD’s submission that the property would be inspected again within two days, and further action, in accordance with law, would be taken. This order was passed without prejudice to the rights and contentions of owners/occupants of the subject property.

3. Mr. Upadhyay submits that, pursuant to the aforesaid order, MCD passed a demolition order on 09.02.2024, having found the petitioner’s construction to be unauthorised in the ground floor and first floor in the shape of a projection on municipal land. The details of unauthorised construction records that the ground and first floor were unauthorised in the shape of the entire floor.

4. It is stated in the present writ petition itself that the petitioner had approached the Appellate Tribunal for MCD by way of Appeal No. 110/2024, against the demolition order dated 09.02.2024, but withdrew the appeal. Although the date of withdrawal is not mentioned in the writ petition, Dr. M.K. Gahlaut, learned counsel for the petitioner, states that it was withdrawn on 12.04.2024. The order dated 12.04.2024, has been handed over in Court, and is taken on record. It states that a separate statement of the appellant was recorded before the appeal was withdrawn.



5. Mr. Upadhyay states that the impugned vacation notice dated 04.09.2024 has been issued to implement the aforesaid demolition order.

6. In these circumstances, no fault can be found with the vacation notice issued by the MCD. The present writ petition on this ground, therefore, fails.

7. Dr. Gahlaut has been given an opportunity to seek instructions as to whether the petitioner seeks some time to vacate the property, subject to an undertaking. After obtaining instructions from the petitioner, Dr. Gahlaut states that the petitioner does not seek such an order. However, Dr. Gahlaut states that the petitioner has applied for regularisation of the unauthorised construction. I do not find any such averment in the writ petition. In the event, the petitioner has made a regularisation application, MCD is at liberty to deal with the same in accordance with law.

8. As far as the property of respondent No. 3 is concerned, Mr. Upadhyay states that the property will be inspected in the course of the day, and if any unauthorised construction is found, a show cause notice will be issued to the owners/occupants of the property within one week from today. The matter will be considered after receipt of the reply to the show cause notice, and further orders will be passed/action taken as expeditiously as possible and practicable, subject to availability of police assistance.

9. In view of the above, no further orders are required in the writ petition, which stands disposed of with the above observations.

10. In the event, the petitioner has any further grievance with regard to unauthorised construction in the property of respondent No. 3, 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 7, 2024

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