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

+ W.P.(C) 14264/2024 & CM APPLs. 59733-34/2024

SUSHIL KUMAR GOEL & ANR.

.....Petitioners

Through: Mr. Sachin Mittal, Ms. Bhawna
Nanda, Ms. Khushboo Sharma,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI

& ORS.

.....Respondents

Through: Mr. Umang Tyagi, ASC with Ms.
Aditi Kapoor, Ms. Aishwarya
Kapoor, Advocates for MCD.
Mr. Abhishek Khanna, SPC with
Mr. Parvesh Khanna, Mr. Ashish
Khanna, Advocates for R-2
[9953432792].
Mr. Hariom, Advocate for R-3.
Mr. Anuj Chaturvedi, Advocate for
DDA.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.10.2024

1. This is the second writ petition filed by the petitioners in the course of one week, in respect of alleged illegal and unauthorised construction above the first floor of property No. C/C-3, A/365, Janakpuri, West Delhi, Delhi – 110058 [“the property”].

2. The first writ petition [W.P.(C) 13937/2024] was disposed of on



04.10.2024, with the following order:

“1. The petitioner has filed this petition for a direction upon the Municipal Corporation of Delhi [“MCD”] to issue a stop work notice in respect of alleged unauthorised construction above the first floor of property No. C/C-3, A/365, Ground Floor, Janakpuri, West Delhi, Delhi-110058. [“subject property”].

2. According to the petitioners, the alleged unauthorised construction is being carried out by respondent No.3, who is the brother of petitioner No.1.

3. Mr. Umang Tyagi, learned counsel for Municipal Corporation of Delhi [“MCD”] who appears on advance notice, states that the property has been inspected and that no construction has been found to be ongoing. Only some minor repair work is being carried on. He states that MCD will continue to keep vigil over the property in the regular course, to ensure that no unauthorised construction takes place. He states that if there is any deviation from the sanctioned building plan, necessary action will be taken in accordance with law.

4. The petitioners have not approached 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.]. In the event the petitioners have any further grievance with regard to unauthorised construction, they are at liberty to approach the STF. 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].

5. The petition, alongwith the pending applications, is disposed of.”

3. The petitioners are the brother and nephew of respondent No. 3, and reside on the ground floor of the property. Their contention is that respondent No. 3, who is living on the first floor of the property, is constructing above the first floor illegally. Pursuant to the order dated 04.10.2024, the petitioners made a complaint to the Municipal



Corporation of Delhi [“MCD”] and the Special Task Force [“STF”] on 05.10.2024, and have filed this writ petition two days thereafter.

4. It is the contention of Mr. Sachin Mittal, learned counsel for the petitioners, that work continues at the site and is in excess of minor repairs, as contended by learned counsel for MCD in the order dated 04.10.2024.

5. This writ petition has been filed, merely two days after a complaint was made to the STF, in terms of the order dated 04.10.2024. The STF is the authority comprising of representatives of various agencies, which is required to address issues of illegal constructions, as held in the judgments cited in the order dated 04.10.2024. The petitioners ought to have exhausted the remedy available to them, in terms of the order earlier granted in their petition.

6. However, Mr. Umang Tyagi, learned counsel for the MCD, who appears on advance instructions, states that MCD continues to maintain a vigil over the property as directed, and that all work in the building has been stopped pursuant to a work stop notice dated 04.10.2024. Mr. Hariom, learned counsel for respondent No. 3, has entered appearance, and contends that the work been carried out was only to repair a *barsati* on the terrace of the property, however, respondent No.3 has stopped the work in question and undertakes that work will be resumed only after obtaining permission of the MCD.

7. Mr. Tyagi assures the Court that it will continue to keep a vigil on the property to ensure compliance of the building regulations.

8. In view of the above submissions, the petition, alongwith pending applications, is disposed of.



9. This order is without prejudice to the rights and contentions of respondent No. 3, or any owner/occupant of the property, to take any remedies available to them in law. MCD is directed to act strictly in accordance with law, and after compliance of all statutory formalities.

OCTOBER 9, 2024
“Bhupi”/

PRATEEK JALAN, J