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

+ W.P.(C) 14318/2024, CM APPL. 59933/2024 & CM APPL. 59934/2024

SARAJU KHAN

.....Petitioner

Through: Mr. Manav Mitra and Ms. Akshaya
Jebakumar, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI
& ORS.

.....Respondents

Through: Mr. Aditya Vaibhav Singh and
Mr. Gautam Singh, Advocates for
MCD.
Mr. Awadhesh Kumar Singh,
Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.10.2024

1. The petitioner has filed this petition, under Article 226 of the Constitution, complaining of alleged illegal and unauthorised construction at *Property No. P-92, Comprising Khasra No. 211-212 situated near Pahalwan Chowk, Jogabhai Extention, Jamia Nagar Okhla, New Delhi* [“subject property”].

2. It is contended by the petitioner that the construction is being carried out by respondent No.3.

3. The petitioner claims to be the owner of the property, and has also filed a suit against respondent No.3 [CS SCJ 1668/2023], which remains pending before the learned Senior Civil Judge, Saket Courts, South East District, Delhi. I am informed that the proceedings before the learned

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Civil Judge are next listed 16.10.2024.

4. Although the plaint and an application for injunction have curiously not been annexed to the writ petition, learned counsel for the petitioner, states that the prayers in the suit includes a mandatory injunction directing respondent No.3 to remove construction material from the site. The petitioner has also made an application in the suit for injunction against the occupation of the property by respondent No.3.

5. While the suit and application remain pending before the Civil Court, the petitioner has filed this writ petition for a direction upon Municipal Corporation of Delhi [“MCD”] to stop the alleged illegal and unauthorised construction in the subject property.

6. Learned counsel for the petitioner states that the grievance in the writ petition is not related to title of the property, but to unauthorised construction therein, in violation of the building regulations.

7. Learned counsel for MCD, who appears on advance notice, states that the property could not be identified from the complaint made by the petitioner.

8. Situations such as this can be addressed by a reference to 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.*]. The STF comprises of all relevant agencies, so that action can be taken in respect of unauthorised construction in a coordinated manner. I am, therefore, of the view that as far as the statutory violation is concerned, the petitioner ought to approach the STF first. Such a direction is also in consonance with the decisions of the Division Bench in 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].

9. The writ petition is, therefore, disposed of with liberty to the petitioner to approach the STF, which is directed to take such action as permitted in law expeditiously.

10. It is made clear that the disposal of this petition does not come in the way of MCD exercising its statutory powers with regard to the construction of the subject property. The rights and remedies of respondent No.3, or any other owner/occupier of the subject property, are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory requirements.

11. Pending application also stands disposed of.

PRATEEK JALAN, J

OCTOBER 9, 2024
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