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

+ W.P.(C) 14323/2024, CM APPL. 59941/2024 & CM APPL. 59942/2024

MAN MOHAN BABBAR

.....Petitioner

Through: Mr. Vipin Nandwani, Advocate
with petitioner in person.

versus

MUNICIPAL CORPORATION OF DELHI

AND ORS.

.....Respondents

Through: Mr. Mukesh Gupta, SC for MCD
with Mr. Arnav Gupta, Mr. Shashi
Gupta and Mr. Ashwini Bhaskar
Singh, Advocates.

Mr. Sanjay Kumar Pathak, SC for
GNCTD with Mr. Sunil Kumar Jha
and Mr. M.S.Akhtar, Advocates.
Mr. Jatin Singh, Advocate for R-4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **09.10.2024**

1. The petitioner has filed this petition, under Article 226 of the Constitution, complaining of alleged unauthorised construction in Property No. 5381 and a portion of Property No. 5382, *New Chandrawal Jawahar Nagar, Malka Ganj, New Delhi, 110007* [“subject properties”].

2. It is the contention of the petitioner that he is a resident of property No. 5382, but unauthorised constriction has been carried out by respondents No.5 and 6 in property No. 5381. It is also mentioned in the

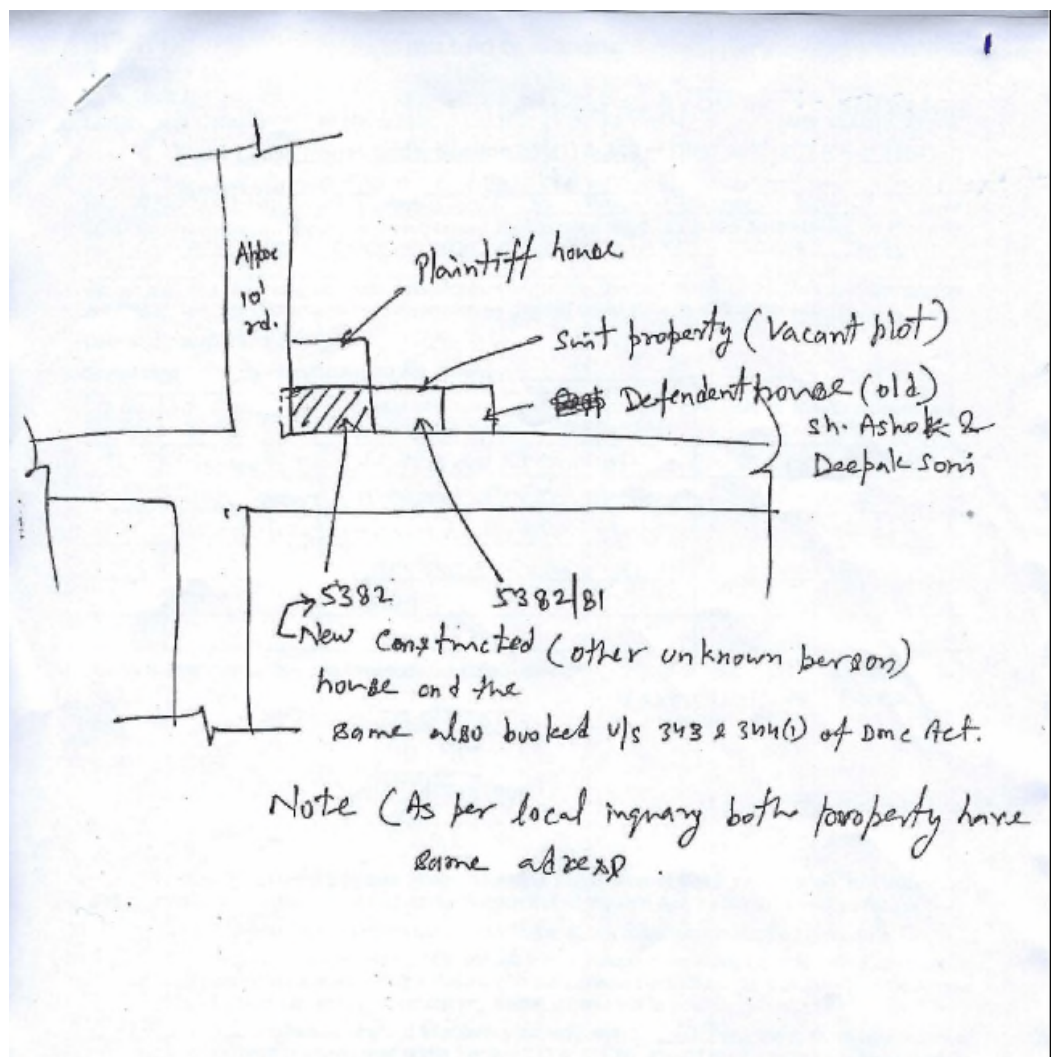
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writ petition that a part of property No. 5382 is also being constructed unlawfully, by way of an encroachment on a public road.

3. Mr. Mukesh Gupta, learned counsel for Municipal Corporation of Delhi ["MCD"] who appears on advance notice, has handed over some documents and a sketch plan, which show that a property bearing No. 5382 has been inspected, as well as a neighbouring property, which according to local enquiry bears the number being 5382/81. The sketch plan is reproduced below:





4. The property shown as property No. 5382 in the sketch plan has been found to be an unauthorised construction, and a show cause notice has been issued to the owners/occupants of the property on 08.10.2024. Unauthorised construction having been found to be on-going, a stop work notice has also been issued on 08.10.2024.

5. However, there appears to be some controversy as to the identification of the property in question. The portion in the sketch plan, against which the MCD has commenced action is, according to the petitioner, a part of property No. 5382, which has encroached upon the public road. Additionally, the petitioner also seeks action in respect of the property identified as property No. 5382/21 in the sketch plan.

6. In view of this controversy with regard to the exact identification of the property, MCD is directed to conduct a joint inspection with the petitioner, within the next two days. In the event any unauthorised construction is found to be on-going, against which action has not yet been commenced, MCD will act expeditiously to issue a show cause notice and a work stop notice. MCD will also proceed in accordance with law as far as property No. 5382 is concerned. The inspection be carried out upon notice to the petitioner through his learned counsel.

7. In the event the petitioner remains aggrieved by any unauthorised construction, 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].

8. This order is passed without prejudice to the rights and contentions of any owners/occupants of the subject properties, 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.

9. The petition, alongwith pending applications, is disposed of.

PRATEEK JALAN, J

OCTOBER 9, 2024
SS/