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

+ W.P.(C) 14325/2024 & CM APPL. 59945/2024

ANKUR GUPTA

.....Petitioner

Through: Mr. Vipin Kumar Mishra and Mr.
Surya Prakash Pandey, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI

AND ORS

.....Respondents

Through: Mr. Umang Tyagi, ASC MCD
with Ms. Aditi Kapoor and Ms.
Aishwarya Kapoor, Advocates.
Ms. Alpana Pandey, Senior Panel
Counsel for UOI with Mr. Neeraj
Bhardwaj, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.10.2024

1. The petitioner has filed this petition complaining of illegal encroachment in front of his property *bearing No. 79B Church Mission Road, Fatehpuri, Delhi-110006* [“subject property”].
2. The petitioner is a lessee of the subject property, which has been further sub-leased for operation of a dry fruit shop. The contention in the writ petition is that encroachers and hawkers have been putting up stalls on a public footpath in front of the petitioner’s shop and blocking ingress and egress to the shop. The petitioner states that he has filed First Information Reports in the year 2022, as also a civil suit against

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respondent No.3, which was withdrawn on 04.01.2024.

3. It is stated that the encroachments have re-occurred despite the fact that the subject property falls in a No-Hawking Zone.

4. The petitioner earlier approached this Court, under Article 226 of the Constitution, by filing W.P.(C) 4940/2024. By order dated 07.08.2024, this Court noted the contents of a status report, filed by Municipal Corporation of Delhi [“MCD”], stating that remedial measures have been taken and will continue to be taken.

5. The present writ petition has been filed on the ground that the encroachment has again re-occurred outside the petitioner’s shop.

6. Mr. Umang Tyagi, learned counsel for MCD who appears on advance notice, states that encroachment removal actions are being taken regularly, and further action is planned within the next three days. As recorded in the order dated 07.08.2024, he assures the Court that continuous action will be taken for this purpose, in accordance with the statutory duties of MCD.

7. In proceedings relating to illegal encroachment, regular and continuous vigil is required to prevent re-encroachment. It is evident from the contents of the writ petition itself that MCD has been taking periodic action, but the encroachments have been re-established.

8. Having regard to the nature of the problem, MCD is also directed to nominate a Nodal Officer, whom the petitioner can contact in the event of repetitive encroachment, so that the petitioner does not need to approach the Court again. If it is found that the re-encroachment is by the same person again and again, MCD and the petitioner may also take such steps as available to them in law in this regard, including institution of



proceedings for nuisance, as directed in order dated 20.08.2024 in W.P. (C) 11400/2024 [*Sh. Nilabh Sharma v. Municipal Corporation of Delhi through its Deputy Commissioner South Zone*]. Ms. Alpana Pandey, learned counsel, has appeared on behalf of the concerned Station House Officer, who is also directed to render such assistance as may be required.

9. In view of the statement of Mr. Tyagi that action will be taken within the next three days, the writ petition is disposed of, alongwith any pending applications.

10. All rights and remedies available to respondent No. 3 in law, remain reserved.

PRATEEK JALAN, J

OCTOBER 9, 2024
SS/