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

+ W.P.(C) 14356/2024 & CM APPLs. 60109-60110/2024

GUNPRIT SINGH & ORS.

.....Petitioners

Through: Mr. Naman Joshi, Mr. Guneet Sidhu, Mr. Radharaman Rajoriya & Mr. Rahul, Advocates. [M:- 8358930751]

versus

RAVINDER SINGH & ORS.

.....Respondents

Through: Mr. Ajjay Aroraa, Mr. Kapil Dutta, Advocates for MCD.
Mr. Avni Singh, Panel Counsel for GNCTD with Mr. Sahil Sharma, Advocate for R-6.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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14.10.2024

1. The petitioner has filed this petition for the following reliefs: -

*“A. Issue a Writ of Certiorari, or any other appropriate writ, order, or direction quashing and setting aside the Impugned Order dated 19.09.2024, passed by the Ld. District Judge, Saket District Court in **MCD Appl. No. 8 of 2024**;*

B. Issue a Writ of Mandamus, or any other appropriate writ, or other appropriate writ, order, or direction directing the Respondent No. 2 to carry out demolition of the Unauthorized / Illegal Construction of the Subject Property in a time-bound manner; and/or

C. Pass any other Order(s) as this Hon'ble Court may deem fit in the given facts and circumstances of the present case.”

2. Although the petition is styled as a petition under Articles 226 and 227 of the Constitution, it is evident that substantive relief sought is to



challenge the order of the Principal District and Sessions Judge dated 19.09.2024. Prayer 'B' is really a consequential relief, which is entirely dependent on the fate of the challenge to the judicial order.

3. The order dated 19.09.2024 has been passed on an appeal of the private respondent against an order of the Appellate Tribunal for the Municipal Corporation of Delhi. Such an appeal before learned District Judge is a judicial proceeding, as held by the Supreme Court in *Amrik Singh Lyallpuri v. Union of India* [(2011) 6 SCC 535].

4. As such, I am of the view that the proper remedy lies only under Article 227 and not under Article 226. As a practical matter, this would have a consequence upon the availability of the appellate remedy before the Division Bench.

5. In view of the above, Mr. Naman Joshi, learned counsel for the petitioner, seeks permission to withdraw this writ petition, with liberty to assail the order of the learned District Judge in a properly constituted petition under Article 227 of the Constitution.

6. The petition, alongwith pending applications, is dismissed as withdrawn, with liberty as aforesaid.

PRATEEK JALAN, J

OCTOBER 14, 2024

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