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

+ **W.P.(C) 14568/2024 & CM APPL. 61093-61094/2024**

ATUL SHARMA

.....Petitioner

Through: Mr. M. Sufian Siddiqui, Mr.
Rakesh Bhugra and Mr. Md.
Nizamuddin, Advocates.

versus

**MUNICIPAL CORPORATION OF DELHI
& ANR.**

.....Respondents

Through: Mr. Ajjay Aroraa, SC with Mr.
Kapil Dutta, Advocate for MCD.
Mr. Nitesh Gupta, Advocate for R-
2 with R-2 in person. [M:
9999995643]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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23.10.2024

1. The petitioner has approached this Court under Article 226 of the Constitution for a direction against the Municipal Corporation of Delhi ["MCD"] from taking any coercive action in respect of his portion of factory premises located at *plot No. J-28, Udyog Nagar, Rohtak Road, New Delhi-110041*. The petitioner also seeks a direction that the MCD take action in respect of alleged illegal construction in the front portion of the premises.

2. The petitioner claims to be in possession of part of the subject property which is being used as a factory, including the following:

"i) One small room and front yard passage on the front side, which included one small toilet,

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- ii) *A tin shed area at the backside of the ground floor,*
- iii) *The entire mezzanine floor, which comprises one hall, five rooms, and a passage, and*
- iv) *The entire terrace area, including an open space, one tin shed room, and a mumty above the staircase.”*

3. It appears that there were some disputes between the petitioner and his father, and respondent No.2 claims to have purchased the entire factory premises from the father of the petitioner. According to the petitioner, this sale was in violation of an order of *status-quo* passed in a civil suit between the petitioner and his father.

4. There was an earlier round of proceedings in respect of unauthorised construction in the subject property, which resulted in a demolition order dated 19.10.2022, issued by MCD, directing demolition of a tin shed alongside *mumty* at the terrace and a toilet in the front setback at ground floor of the property. The order was challenged before the Appellate Tribunal for MCD [“ATMCD”], but the appeal was dismissed for non-prosecution as, according to the petitioner, he had removed the unauthorised construction himself.

5. At this stage, Mr. Ajjay Aroraa, learned counsel for the MCD who appears on advance notice, states that upon inspection it was found that construction was ongoing at the premises, for which no permission from MCD had been taken. He states that MCD has, therefore, issued a stop work notice to the Station House Officer [“SHO”] on 21.10.2024. As far as this aspect is concerned, Mr. M. Sufian Siddiqui, learned counsel for the petitioner, and Mr. Nitesh Gupta, learned counsel for respondent No.2, who also appears on advance notice, states that neither of them has engaged in any construction activity at the premises, and that they will



carry out any construction only after obtaining the sanction of MCD in accordance with law. The petitioner and respondent No.2 are bound down to this statement. They will both file affidavits of undertaking before the Court to this effect within three days from today.

6. As far as the allegation of demolition of unauthorised construction on the petitioner's part of the premises is concerned, Mr. Aroraa states that action for demolition will be taken only after inspection of the property and issuance of a show cause notice to the owners/occupants of the property.

7. There is a suit for possession, which has been filed by respondent No.2 and remains pending in the District Court, Tis Hazari. In order obviate any internecine dispute between the petitioner and respondent No.2, *vis-a-vis* the proposed action by MCD, it is directed that MCD will inspect the property on 25.10.2024 at 11:00 AM. In the event any unauthorised construction is found, MCD will issue a show cause notice addressed both to the petitioner and respondent No.2 as well as any other owners/occupants of the property. The show cause notice will be served upon the petitioner and respondent No.2 through their counsel in these proceedings. After considering the replies, if any, received from any of the owners/occupants of the property, including the petitioner and respondent No.2, MCD will take such further action as available to it in law. In the event a demolition order is passed, that will also be served upon both the petitioner and respondent No.2 through their counsel and any other owners/occupants of the property. A demolition order may be implemented after a passage of 10 days from service thereof to enable any aggrieved party to take their appellate remedies before the ATMCD.



8. In the event construction is found to be ongoing, MCD may take the assistance of the concerned SHO to ensure that no further construction takes place.

9. Subject to the above, MCD is at liberty to take action in accordance with law after following the due procedure, without prejudice to the rights and contentions of the petitioner and respondent No.2 in the pending civil suit.

10. The petition is disposed of with these directions. Pending applications too stands disposed of.

PRATEEK JALAN, J

OCTOBER 23, 2024
SS/