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

+ W.P.(C) 14812/2024
KUSUM LATA

.....Petitioner

Through: Mr. Adamaya Pal Singh,
Advocate.

versus

MUNICIPAL CORPORATION OF DELHI
& ANR.

.....Respondents

Through: Ms. Shivangi Kumar, Ms. Neha
Rao, Advocates for MCD.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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22.10.2024

CM APPL. 62258/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 14812/2024 & CM APPL. 62257/2024 (stay)

1. The petitioner has approached this Court under Article 226 of the Constitution for a direction against the Municipal Corporation of Delhi ["MCD"] not to demolish any part of the petitioner's property being *flat No. 351, First Floor, Pocket-4, Type-C, Sector-2, situated at Rohini, Delhi* in pursuance of a demolition order dated 16.07.2024 and to provide a copy of the said demolition order to the petitioner.
2. In the writ petition, the petitioner accepts that she received an order dated 04.07.2024 from MCD, which is described in the writ petition as "a



demolition notice under Section 343 of the Act". A perusal of the document, which is annexed to the petition as Annexure P-5, however shows that the same is, in fact, an order of demolition under Section 343 of the Act. The order records that unauthorised construction exists in the shape of deviation/ excess coverage against the standard DDA Building plan at Flat No. (351 First Floor), Pocket-4, Sector-2, Rohini and in the shape of entire second floor, third floor and one room on the terrace of the third floor with projection on municipal land at every floor.

3. The order further refers to a show cause notice dated 28.06.2024 served upon the owners/occupants of the property, which has also been annexed to the writ petition. No response was received by MCD to the said notice. The owners/occupants were thereafter directed to demolish the above-mentioned unauthorised construction within six days, failing which MCD would initiate action for demolition. The order is addressed to the owners/occupiers of the petitioner's property and, in fact, to the petitioner also, by name.

4. The petitioner has also admitted receipt of a vacation notice dated 26.07.2024 and a further communication dated 29.08.2024 with regard to demolition of the property.

5. It thus appears that the petitioner was duly served with the demolition order dated 04.07.2024 and the further action taken is only consequential.

6. Learned counsel for the petitioner states that a document dated 16.07.2024 has been referenced in a status report filed by MCD before the District Court, Rohini in a suit filed by the petitioner's neighbours being CS No. 1491/2023. However, learned counsel for the respondent



clarifies that the action contemplated is pursuant to the demolition order dated 04.07.2024, and the order dated 16.07.2024 is only an internal approval taken by the concerned Joint Engineer for action to be taken by MCD in view of the petitioner's failure to demolish the property. A copy of the record has been produced in Court and is taken on record.

7. It is clear from the documents filed with the writ petition itself that the petitioner was served with the demolition order dated 04.07.2024. No orders are, therefore, required in this writ petition, other than to state that the petitioner is at liberty to take her legal remedies against the demolition order dated 04.07.2024, if so advised. The rights and contentions of the parties, including with regard to limitation for the purpose of any appeal filed by the petitioner, are expressly reserved.

8. The writ petition is disposed of with these observations.

PRATEEK JALAN, J

OCTOBER 22, 2024

"Bhupi"/