



\$~11

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

+ **W.P.(C) 15590/2024 & CM APPL. 65388/2024**

AVTAR SINGH SEJWAL & ORS.

.....Petitioners

Through: Mr. S.S. Pandey, Mr. Himanshu
Shekhar Tiwari, Mr. Nishant
Pandey and Ms. Somya Pandey,
Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. G.S. Oberoi, ASC with Mr.
Ankur Sharma, Advocate for
DDA.

Mr. Tushar Sannu, SC with Mr.
Manoviraj Singh, Advocates, for
MCD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

08.11.2024

1. The petitioners have approached this Court under Article 226 of the Constitution challenging a vacation notice dated 11.06.2024 in respect of their property *No. 632, Village – Lado Sarai, New Delhi*.
2. It is evident from the impugned notice dated 11.06.2024, that it is predicated upon a finding that the construction erected upon the property is unauthorised. Reference is made to two proceedings issued in this regard, which culminated in orders dated 20.06.2008 and 08.01.2013.
3. Mr. Tushar Sannu, learned counsel for Municipal Corporation of Delhi [“MCD”], submits that action has been taken in terms of an order



of this Court dated 13.12.2023 in W.P.(C) 3091/2013.

4. The aforesaid writ petition was filed by one Mr. Vinay Kumar Walia, seeking removal of encroachment in the subject property. The contention of MCD was noted in the order dated 13.12.2023, to the effect that demolition and sealing orders have already been passed and that action would be taken in accordance with law, subject to applicability of the moratorium under the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 [“Special Provisions Act”].

5. It is the contention of the petitioners that the property in question is protected by the moratorium. Learned counsel submits that the aforesaid demolition and sealing orders, referred to by learned counsel for MCD, were passed prior to the petitioners purchasing the property. Learned counsel for MCD has been instructed that there has been some instance of tampering of the seals on the property.

6. The submission is disputed by learned counsel for the petitioners, but, in any event, it is clear that no such contention has been recorded in the impugned vacation notice dated 11.06.2024.

7. Having regard to the fact that the moratorium imposed by the Special Provisions Act protects unauthorised constructions constructed prior to 31.12.2014, and the vacation notice also referred to a demolition order prior to the same date, i.e., acknowledgement that the construction in question was erected prior to 2014, the vacation notice dated 11.06.2024 is set aside.

8. In the event, MCD intends to take action in respect of the subject property, based upon any unauthorised construction which is not protected by the moratorium, specific show cause notices may be issued



to the petitioners in this regard, and further orders may be passed, including vacation notices, after considering the responses of the petitioners.

9. The writ petition, alongwith the pending application, is disposed of with the aforesaid directions.

PRATEEK JALAN, J

NOVEMBER 8, 2024

“Bhupi”/MR/