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

+ W.P.(C) 15628/2024 & CM APPL. 65585/2024

BIRBAL GOSWAMI @ BALBIR GOSWAMIPetitioner

Through: Mr. S.N. Khanna, Advocate with
Petitioner in Person.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Karan Kapur, ASC for MCD.
Ms. Davinder Pal Kaur, Advocate
for R-2 & 3.
Mr. T.P. Singh, Senior Central
Govt. Counsel for R-4/SHO. [M:-
9971529687]
Mr. Shashi Pratap Singh & Ms.
Muskaan Garg, Advocates for
DDA/R-5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **11.11.2024**

1. The petitioner has approached this Court under Article 226 of Constitution, complaining of alleged unauthorised construction in the property bearing *Plot No. 24, land area measuring 250.839 Metres i.e. 300 Sq. Yards, 3/58" Share Of Mustail No.18, Killa No. 10 and 3/96 share of Mustail No.17, Killa No.6, situated in the area of village Kamalpur Mazra, abadi known as Harit Vihar, Burari, Delhi- 110084 @ Plot. No. 24, Harit Vihar, Burari, Delhi-110084* ["subject property"].

2. It is the petitioner's contention that he is the owner of the subject property, in respect of which he had entered into an Agreement to Sell



with respondent Nos. 2 and 3. The parties are also in civil litigation with respect to their contractual dispute. The petitioner has filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 [O.M.P.(I)(COMM) 306/2024], in which certain interim orders have been passed in his favour.

3. By way of the present writ petition, however, the petitioner submits that, quite apart from the civil disputes, the construction has been carried out by respondent Nos. 2 and 3, without the sanction plan and is thus unauthorised.

4. Mr. Karan Kapur, learned Additional Standing Counsel for the Municipal Corporation of Delhi [“MCD”], who appears on advance instructions, states that the property has been inspected and, as construction was found to be ongoing without a sanction plan, a show cause notice has been issued to the owners/occupants of the subject property today. He submits that further action will be taken upon consideration of the reply to the show cause notice, if any.

5. In view of the aforesaid submission, no further orders are required in this writ petition, which stands disposed of.

6. The aforesaid submissions are recorded without prejudice to the rights and contentions of the petitioner and respondent Nos. 2 and 3 in the civil proceedings between them. Regardless of the correctness of the parties’ contentions with regard to ownership or possession of the subject property, any construction can only be erected in accordance with the Act and the building byelaws.

7. Ms. Davinder Pal Kaur, learned counsel for respondent Nos. 2 and 3, reserves the rights of respondent Nos. 2 and 3 to contest the notice and



to assail any order that may be passed by MCD with regard to the subject construction. MCD is directed to act strictly in accordance with law and after compliance with all statutory formalities. The rights and contentions in the civil proceedings between them are also reserved.

8. The writ petition, alongwith pending application, stands disposed of with these observations.

PRATEEK JALAN, J

NOVEMBER 11, 2024

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