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

+ W.P.(C) 15672/2024

RWA OF INDEPENDENT HOUSES FLATS OF
RAJ NAGAR PART 2 PALAM COLONY
NEW DELHI 110077 REGD

.....Petitioner

Through: Ms. Sanya Sharma, Advocate with
Mr. Pradeep Nawani, Advocate.

versus

DEPUTY COMMISSIONER NAJAFGARH ZONE
MCD AND ORS

.....Respondents

Through: Mr. Mukesh Gupta, SC Mr. Anan
Gupta, Advocate for MCD.
Mr. Varun Chugh, Ms. Shreya
Mittal, Advocates for R-2 and 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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11.11.2024

CM APPL. 65829/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 15672/2024

1. The petitioner claims to be a registered society under the Societies Registration Act, 1860, which functions as the Resident Welfare Association ["RWA"] in Raj Nagar Part-2, Palam Colony, New Delhi – 110077.

2. The petitioner-RWA has filed this petition, under Article 226 of the Constitution, complaining of encroachment by shopkeepers and hawkers



on Mehrauli Road and Railway Crossing Road in the said locality.

3. Learned counsel for the petitioner has drawn my attention to a complaint lodged on the online grievance portal established by the Office of Lieutenant Governor, wherein a remark has been made by the police authorities, stating that the Assistant Commissioner of Police has conducted an inquiry. It states that action has been taken from time to time under Section 66(b) of the Delhi Police Act, 1978, in the course of which, 147 vehicles have been seized, and 92 cases registered under Section 285 of the Bharatiya Nyaya Sanhita, 2023. The beat staff has also been sensitized and directed to take legal action against encroachers. The Municipal Corporation of Delhi [“MCD”] has also been requested to take necessary action and on the assurance of adequate police assistance.

4. Learned counsel for MCD and Delhi Police are also present, and state upon instructions, that regular encroachment removal actions are being taken and that such actions will be maintained to ensure that recurrence of encroachment are minimised.

5. It is undisputed that action has been taken by the respondent from time to time, as evident from the aforesaid contents of the writ petition itself. However, issues of encroachment are, by their very nature, recurring issues and require sustained vigil and action on the part of the statutory authorities. The statutory authorities have indicated that they are cognizant of the problem of unauthorised encroachment on the public roads and footpaths in the area and will maintain necessary vigil.

6. In a judgment of this Court in *Sh. Nilabh Sharma v. Municipal Corporation of Delhi through its Deputy Commissioner South Zone* [W.P. (C) 11400/2024, decided on 20.08.2024], it has been noted that a remedy



is available to the petitioner under Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023. In these circumstances, learned counsel for the petitioner reserves the rights of the petitioner to invoke such remedy.

7. Additionally, the MCD and Delhi Police are directed to appoint a Nodal Officer, so that the petitioner, if necessary, can raise its grievances against any recurrence of encroachments with the administrative authorities, rather than approaching this Court. The contact details of the Nodal Officers will be communicated to the General Secretary of the petitioner-RWA, and learned counsel for the petitioner, within two weeks from today.

8. No further directions are sought in this writ petition, which stands disposed of.

PRATEEK JALAN, J

NOVEMBER 11, 2024

'Bhupi' /