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

+ W.P.(C) 15810/2024
NEELAM

.....Petitioner

Through: Mr. Abhinav Sharma, Mr. Deepak
Jain, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI
& ORS.

.....Respondents

Through: Mr. Abhinav Singh, ASC with Mr.
Praveen Kaushik, Advocates for
MCD.
Mr. Sandeep Tyagi, SPC with Mr.
Manoj Kr. Tyagi, Advocates for R-
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CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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14.11.2024

CM APPL. 66392/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 15810/2024

1. The petitioner is a resident of *DENA Apartments, Sector – 13, Rohini, Delhi*. She has filed this petition under Article 226 of the Constitution with regard to alleged illegal construction by other residents of the apartment complex. The prayer clause itself reveals that her grievance is against unauthorised construction “*carried out by the large number of people/ flat owners/ members of the respondent No. 3 RWA,*



like various deviations, alterations, encroachment/ unauthorised construction carried out by them”.

2. The petitioner’s grievance is that the extended balcony, which had been constructed in her flat, was demolished by the Municipal Corporation of Delhi [“MCD”] in September 2024, but other similarly placed residents have not faced similar action.

3. It is clear from the aforesaid extract of the prayer clause that the petitioner’s grievances are not limited to one or two properties or one or two deviations, but requires examination of each flat in the locality and the specific deviation, alteration, etc. which the owners/occupants may have constructed.

4. The Supreme Court by orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [*M.C. Mehta vs Union of India & Ors.*] has constituted a Special Task Force, headed by the Vice-Chairman, Delhi Development Authority [“DDA”], comprised of representatives of the DDA, MCD and Government of NCT of Delhi and other concerned agencies to look into issues of unauthorised construction, encroachment etc. I am of the view that in a case like the present one where allegations are made in respect of diverse properties, each of which would have to be examined factually, recourse to the administrative mechanism as appropriate at the first instance. This direction is made with reference to the decisions of the Division Bench in *Devender vs. Govt. of NCT of Delhi and Ors* [order dated 20.09.2018 in W.P.(C) 1807/2018], *Sneh Lata & Anr. vs. North Delhi Municipal Corporation & Anr.* [order dated 08.04.2019 in LPA 245/2019], *Fazruddin vs. DDA & Ors.* [order dated 23.04.2019 in WP (C) 4649/2017], and in *Himanshu vs. East Delhi*



Municipal Corporation & Anr. [order dated 31.07.2023 in W.P.(C) 8104/2022], and decisions of coordinate Benches in *Abdul Gaffar vs South Delhi Municipal Corporation & Ors.* [order dated 28.02.2019 in W.P.(C) 1773/2019] and *Rashiduddin Malik vs. MCD & Ors.* [order dated 02.09.2024 in WP (C) 12102/2024].

5. The writ petition is, therefore, disposed of with liberty to the petitioner to lodge a complaint with the STF, which the STF is directed to look into expeditiously.

6. It is made clear that this Court has not made any observation on the correctness on the allegations contained in the writ petition and the statutory authorities are directed to act in accordance with law after compliance of all statutory formalities. They will also bear in mind the precautions laid down by the Supreme Court in a judgment delivered yesterday, i.e., 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [WP (C) 295/2022 and connected matters].

7. It is made clear that these submissions have been recorded without prejudice to the rights and contentions of the owners/occupants of the subject property, whose statutory remedies are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory formalities.

PRATEEK JALAN, J

NOVEMBER 14, 2024

“Bhupi”/AL/