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

+ W.P.(C) 16022/2024

RESIDENCE WELFARE ASSOCIATION
AND ANR.

.....Petitioners

Through: Mr. Nasimuddin, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI
AND ORS.

.....Respondents

Through: Mr. Siddhant Nath, SC with Mr.
Bhavishya Makhija, Advocate for
MCD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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20.11.2024

CM APPL. 67355/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 16022/2024 & CM APPL. 67354/2024 (for ad-interim directions)

1. The petitioners have approached this Court under Article 226 of the Constitution, complaining of alleged unauthorised construction in property No. 5349, *Kucha Rehman, Chandni Chowk, Delhi – 110006* [“subject property”].

2. Learned counsel for the Municipal Corporation of Delhi [“MCD”], who appears on advance notice, submits that a show cause notice was issued to the owners/occupants of the subject property on 04.09.2024, in



which it was noted that unauthorised construction existed on the ground floor and first floor of the subject property. The construction on the ground floor was marked as “old”, whereas the construction on the first floor was marked as “new”. In the absence of a reply to the show cause notice, MCD passed an order of demolition under Section 343 of the Delhi Municipal Corporation Act, 1957 [“the Act”] on 23.09.2024, in which reference has been made to construction on the ground floor (*old*) and on the first floor to the third floor (*new*) of the subject property. Learned counsel states that a show cause notice with regard to the sealing of the subject property under Section 345A of the Act has also been issued on 10.10.2024, and further action will be taken with regard thereto as expeditiously as possible, in accordance with law. The documents handed over in Court by learned counsel for MCD are taken on record.

3. Learned counsel states that further proceedings pursuant to the demolition order will also be taken in accordance with law. Learned counsel also states that in the event any construction is found ongoing, a stop work notice will also be issued.

4. In view of the aforesaid submissions on behalf of MCD, learned counsel for the petitioners does not seek any further orders in the writ petition, which stands disposed of, alongwith the pending application.

5. The rights and contentions of the owners/occupants of the subject property are expressly reserved. MCD is directed to take action strictly in accordance with law, and after complying with all statutory formalities, subject to the availability of police force, and bearing in mind the Supreme Court judgment dated 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [W.P. (C) 295/2022 and connected



matters].

6. In the event the petitioners have any further grievances with regard to unauthorised construction, they are at liberty to approach the Special Task Force [“STF”], constituted by the Supreme Court vide orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [*M.C. Mehta vs Union of India & Ors.*]. 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].

PRATEEK JALAN, J

NOVEMBER 20, 2024

“*Bhupi/JM*”/