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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 16503/2024, CM APPL. 69733/2024 & CM APPL. 69734/2024

ASHISH VARSHNEY

.....Petitioner

Through: Ms. Mansi Asija, Advocate.

versus

MUNICIPAL CORPORATION
OF DELHI & ORS.

.....Respondents

Through: Mr. Vikas Chopra, SC with Ms. Anita R. Mishra, Advocate for MCD.

Mr. Gaganmeet Singh Sachdeva and Mr. Harshpreet Singh, Advocates for DDA.

Ms. Avni Singh, Panel Counsel with Ms. Prapti Singh, Advocate for GNCTD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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12.12.2024

1. The petitioner has filed this petition under Article 226 of the Constitution complaining of alleged illegal and unauthorised construction at property bearing No. *H-150, Phase-I, Ashok Vihar, Delhi*.

2. The averment in paragraph 1 of the writ petition is that the building has been constructed without any sanctioned plan. Although the petitioner's residential address stated in the memo of parties does not appear to be in the same locality as the subject property, it is stated in



paragraph No. 2 of the writ petition that when the petitioner was going near the property on 14.06.2024, an iron rod hit the petitioner on his leg and that the property was not covered by a tin shed.

3. Mr. Vikas Chopra, learned Standing Counsel for the MCD who appears on advance notice, submits that the complaint dated 15.06.2024 filed by the petitioner with the MCD [Annexure P-1 to the writ petition] itself shows that the petitioner was aware that the property is being constructed pursuant to a sanctioned plan. Further, in the letter dated 15.07.2024, the petitioner has not referred to any incident of an iron rod falling upon him. Further complaints have also been placed on record, which are similar in nature. The photographs placed on record filed with the writ petition [Annexure P-3] also appear to show that there was indeed a metallic shed surrounding the property under construction.

4. Learned counsel for the MCD states that, upon a preliminary inspection, it appears that the property is being constructed after obtaining a sanctioned plan, and that the MCD will take appropriate action in the event there is any deviation from the sanctioned plan, after the building is fully constructed.

5. At this stage, learned counsel for the petitioner seeks permission to withdraw the writ petition, with liberty to take alternative remedies before the Special Task Force 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].

6. The petition, alongwith pending applications, is dismissed as withdrawn with liberty as aforesaid.

7. It is made clear that this Court has not been made any comment upon rights and contentions of the parties and this order is passed without prejudice to any rights and remedies of the owner/occupants of the property. MCD is directed to take action strictly in accordance with law, and after complying with all statutory formalities and bearing in mind the Supreme Court judgment dated 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [WP (C) 295/2022 and connected matters].

PRATEEK JALAN, J

DECEMBER 12, 2024/MR/kb/