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

+ W.P.(C) 16799/2024 & CM APPL. 71086/2024 (*stay*)

SHRI BALBIR SINGH YADAV THROUGH HIS ITS SPA
HOLDER ASHOK YADAVPetitioner

Through: Mr. Arun Verma, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI &
ORS.

.....Respondents

Through: Mr. Siddhant Nath, SC for MCD.
Mr. Raj Kumar Yadav, Mr.
Umakant Mishra, Advocates for R-
2 to 4.
Mr. M.N. Siddiqui, Advocate for
R-5.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
05.12.2024

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1. The petitioner has approached this Court under Article 226 of the Constitution, complaining of alleged illegal construction in property *No. S-25, S- Block, comprised in Khasra no. 260/ 1, Nafees Road, Jogabai Extension, Near Sughra Marriage Hall, Sughra Public School, Okhla, Jamia Nagar, New Delhi – 110025* [“subject property”].

2. Mr. Siddhant Nath, learned counsel for the Municipal Corporation of Delhi [“MCD”], who appears on advance notice, submits that upon inspection of the subject property, the construction was found to be unauthorised. The subject property was first booked on 06.04.2023



(ground floor to second floor) and has been subsequently booked on 29.05.2023 (remainder of second floor and third floor to fifth floor). He states that MCD will take further action in this regard after considering the replies to the show cause notices, if any, and after lifting of Graded Response Action Plan - IV restrictions. If any demolition action has to be undertaken, the same will be taken expeditiously in accordance with law, and subject to availability of police force.

3. In view of the aforesaid submissions on behalf of MCD, Mr. Arun Verma, learned counsel for the petitioner, does not seek any further orders in this writ petition which stands disposed of.

4. Mr. M.N. Siddiqui, learned counsel, enters appears on behalf of respondent No. 5, and contests the locus of the petitioner to file this writ petition.

5. For the present, in view of the fact that the writ petition is being disposed of on the statement of MCD itself, I do not consider it necessary to enter into this controversy. Suffice it to state that the rights and contentions of the owners/occupants of the subject property, including respondent No. 5 remain reserved. MCD is directed to act strictly in accordance with law and after compliance of all statutory formalities. In the event any demolition action is to be taken, MCD will also bear in mind the safeguards laid down by the Supreme Court in 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. The petition, alongwith the pending application, is disposed of with these directions.

7. In the event the petitioner has any further grievances with regard to



unauthorised construction, he is at liberty to approach the Special Task Force [“STF”], constituted by 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.*]. 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

DECEMBER 5, 2024

“Bhupi/JM”/