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

+ W.P.(C) 17795/2024
KARAMVIR TYAGI

.....Petitioner

Through: Ms. Santosh, Mr. Vibhash Gaur,
Ms. Shweta Sinha, Advocates.

versus

MCD OF DELHI AND ORS

.....Respondents

Through: Mr. Rakesh Malhotra, Advocate
for MCD.
Mr. Arjun Mahajan, Mr. Apoorv
Upamanyu, Mr. Harsh Vashisht,
Advocates for DDA.
Mr. Sanjeev Sabharwal, SPC for
UoI.
Mr. Imran Ali, Ms. Aanchal Bomb,
Advocates for R-4.
Mr. M.N. Siddiqui, Mr. Namit
Suri, Advocates for R-5 to R-8.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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23.12.2024

**W.P.(C) 17795/2024 & CM APPL. 75777/2024 (for ad-interim
directions)**

1. The petitioner has approached this Court under Article 226 of the Constitution, complaining of alleged unauthorised construction in property situated at *Khasra No. 401, Shaheen Bagh, Tayyab Lane, New Delhi – 110025* [“subject property”].
2. At the very outset, learned counsel for respondent Nos. 5 to 8



submits that civil proceedings are in progress between the same parties, in which the petitioner has made an application for the same relief. The preceding proceedings concern execution of a decree dated 08.12.2006 in Suit No. 250/2006 (annexed to the writ petition as Annexure A). Learned counsel for the said respondents submits that the present petitioner has filed an application for an order of injunction against alleged illegal and unauthorised construction in the same property. The application in Execution Petition No. 35/2011 (renumbered as Ex. 23986/2016), is currently pending before the Court of learned Additional District Judge, Tis Hazari. A compilation has been handed up by learned counsel for the said respondents, which includes a copy of the said application, filed by the present petitioner himself, and the record of the Executing Court dated 03.08.2024, which refers to filing of the application.

3. Learned counsel for the petitioner does not dispute that the aforesaid application, referred to by learned counsel for respondent Nos. 5 to 8, has been filed by the present petitioner and concerns the same subject property. Although the execution proceedings find mention in the present writ petition, the filing of an application for substantially the same reliefs as sought in the present writ petition, and its pendency, have not been mentioned in the writ petition.

4. At this stage, learned counsel for the petitioner seeks permission to withdraw the writ petition with liberty to pursue alternative remedies in accordance with law.

5. Having regard to the facts noted above, and particularly to the fact that the filing of the application has not been mentioned in this writ petition, I am of the view that the petitioner can be permitted to withdraw



the writ petition, subject to an order of costs.

6. At the request of learned counsel for the petitioner, the writ petition, alongwith the pending application, is dismissed as withdrawn with liberty as aforesaid. However, the petitioner is directed to deposit costs of Rs.25,000/- with the Delhi High Court Legal Services Committee [*UCO Bank, Delhi High Court, Shershah Road, New Delhi, Account No. 15530110008386, IFSC Code- UCBA0001553*] within two weeks from today.

7. A copy of this order be sent to Ms. Shefali Sharma, Additional District and Session Judge, Secretary, Delhi High Court Legal Services Committee, 33-38, Lawyers' Chamber Block-I, Delhi High Court, New Delhi.

PRATEEK JALAN, J

DECEMBER 23, 2024

'Bhupi/JM'/'