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

+ W.P.(C) 5173/2016 & CM APPLs. 21541/2016, 66287/2024

RESIDENTS WELFARE ASSOCIATION F BLOCK.....Petitioner

Through: Mr. Rohan Thawani and Mr. Pratul
Pratap Singh, Advocates

versus

SOUTH DELHI MUNICIPAL
CORPORATION & ORS

.....Respondents

Through: Ms. Sunieta Ojha, SC for MCD
with Ms. Vasudha Priyansha and
Ms. Divija Vashisht, Advocates
Mr. Anuj Aggarwal, ASC,
GNCTD with Mr. Siddhart Dutt,
Advocate for R-2
Mr. Rajinder Kumar, Advocate for
Shop owners.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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13.11.2024

1. The petitioner has raised three grievances with regard to a building plan dated 13.02.2008 in respect of plot *No.F-19, Rajouri Garden, New Delhi* ["subject property"].
2. The petitioner's grievances arise out of alleged unauthorized construction at the subject property, including sanction of a building plan which provides for several shops in the basement and ground floor of the subject property, which is in excess of the maximum of four shops, in terms of the Master Plan for Delhi, 2021.



3. As far as the first aspect is concerned, the petitioner sought sealing of the shops. The latest status report filed by the Municipal Corporation of Delhi [“MCD”] dated 20.09.2024 states that the shops at the basement and ground floor of the property have already been sealed on 19.09.2024. Learned counsel for the MCD states that the shops were subsequently de-sealed temporarily, but have been re-sealed, and remain sealed, as of today.

4. The second aspect concerns a challenge to the sanction plan itself. As far as this aspect is concerned, a sanctioned plan is susceptible to appeal before the Appellate Tribunal for MCD under Section 347B of the Delhi Municipal Corporation Act, 1957 [“the Act”]. It is open to the petitioner to take the available statutory remedy in this regard.

5. The third aspect concerns an allegation of unauthorized construction in the subject property. As far as this aspect is concerned, learned counsel for the petitioner has drawn my attention to a notice dated 28.11.2011 of the Junior Engineer (Bldg.), West Zone, MCD, from which it *prima facie* appears that the construction was unauthorized.

6. Ms. Ojha, learned counsel for MCD, states that MCD will inspect the property from this perspective within one week from today, and if the construction is found to be in deviation from the sanctioned plan, necessary steps will be initiated in accordance with law within a period of four weeks thereafter.

7. Mr. Rajinder Kumar, learned counsel, enters appearance on behalf of ten individuals, who have filed applications for impleadment and directions in the present writ petition. These individuals claim to be the owners of the impugned shops. Although the applications are not on



Board, Mr. Rajinder Kumar, states that they have been filed under Diary No.E-5204659/2024. Copies of the applications have been handed over to the Court and are taken on record. The Registry is directed to number the applications.

8. As far as the interests of the shop owners are concerned, it is made clear that the directions passed in this writ petition are not intended to prejudice the rights and contentions of the owners of the subject property or impede the remedies available to them in accordance with law. MCD is directed to take action after strict compliance of statutory formalities. The remedies available to the shop owners against any actions taken by MCD are also reserved.

9. The petition is disposed of with the above observations. All pending applications also stand disposed of.

PRATEEK JALAN, J

NOVEMBER 13, 2024

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