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

+ W.P.(C) 1579/2024 & CM APPL. 6579/2024

SUHANA

.....Petitioner

Through: None

versus

MUNICIPAL CORPORATION OF INDIA

.....Respondent

Through: Mr. Kaushal Kishore, Mrs. Vidya Santosh Guleria, Ms. Vidya Bhushan Sing and Mr. Basheer Ahmad Mohd. Khan, Advs.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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28.10.2025

1. The present writ petition has been filed seeking quashing of the impugned order dated 31st May, 2023, passed by Office of Deputy Commissioner, Narela Zone, Municipal Corporation of Delhi ("MCD"), *vide* which the respondent has sealed the property bearing *H. No. E-90, J.J. Colony, Bawana Delhi-110039*.
2. A counter affidavit has been filed on behalf of respondent MCD, wherein it is stated as follows:



- 1) That the writ petition under reply is liable to be dismissed as the authorised representative has acted in terms of Delhi Municipal Corporation Act against the property in question. It is submitted that property in question was found engaged in illegal activities of stocking the contraband in the shape of narcotics which was in total violation of the Delhi Municipal Corporation Act as the containing or trading of any Narcotics/contraband from any property much less the subject property is not permissible and is against the permissible use of property, not only in terms of master plan 2021/ Zonal Plan/Sanction Plan which amounts the occupation of property with narcotics substance as misuse of property.
- 2) That the writ petition under reply is liable to be dismissed in terms of directions, principles and guidelines as pronounced by Hon'ble Apex Court in Writ Petition titled as MC Mehta Vs Union of India whereby the bench of Hon'ble Apex Court was pleased to hold that the property which has been occupied or has been used for not sanction purpose would treat and fallen

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within the scope and ambit of misuse of premises, hence is actionable within the provisions of 345A of Delhi Municipal Corporation Act and in pursuance of the same a show cause notice within provisions of section 345A of Delhi Municipal Corporation Act has been served upon petitioner and thereafter a sealing order Dated: 07/06/2023, has been passed in respect of subject property.

- 3) That the writ petition under reply is liable to be dismissed on the count as admittedly the contraband has been recovered from subject property by Investigating Agencies and F.I.R. to the effect and other legal formalities has been registered/initiated bearing F.I.R. No 348/2023 Dated: 02.02.2023, registered with Police Station Alipur within the provisions of section 20 of NDPS Act, and same is pending trial before concerned competent court.
- 4) That the writ petition under reply is liable to be dismissed as the sealing order passed under section 345A of the Delhi Municipal Corporation Act, is an appealable order and is likely to be decided on merits after the scrutiny of all the evidences, may put forward by the parties of captioned writ and the same cannot be decided good or bad by virtue of the writ petition under reply.
- 5) That instant writ petition is liable to be dismissed as admittedly the notice under section 345(A) of Delhi Municipal Corporation Act dated: 31.05.2023, duly served upon petitioner on 05.06.2023, no reply received from the petitioner in response to the show cause notice. Consequently, sealing order Dated: 07.06.2023, was passed which is appealable

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orders within provisions of section 347(B) before Appellate Tribunal Municipal Corporation of Delhi.

- 6) The writ petition is liable to be dismissed as the subject premises is liable to be sealed as per the direction of Hon'ble Supreme Court of India as pronounced in MC Mehta Vs Union of India vide its order Dated:16.02.2000 and 24.3.2000, wherein the Hon'ble Supreme Court has make the corporation entitle to initiate the sealing action against misuse or against occupant who are using the property in violation of permissible use or using the property against the Master Plan 2021/Zonal Plan/Sanction plan which amounts to clear misuse of premises.
- 7) The captioned writ petition is liable to be dismissed as the subject property is also booked within the provision of section 344(1) and section 343 of Delhi Municipal Corporation Act and admittedly the show cause notice to this effect Dated: 30.05.2023, has also been served upon the petitioner. A reply was filed by the petitioner vide diary no. 1152 dated 07/06/2023 in response to the show cause notice, personal hearings were also given to the petitioner on 09/06/2023, 15/06/2023, 03/07/2023, 17/07/2023, 28/07/2023, 22/08/2023, 13/09/2023, 14/10/2023, 02/11/2023, 30/11/2023, 20/12/2023, 08/01/2024 & 18/01/2024. However, the petitioner failed to produce/submit any document in support of her case, consequently, the demolition order dated: 28/05/2024 has been passed by the Respondent No.1 Municipal Corporation of Delhi, and the same order of demolition has attained its finality as the same has not been challenged before the Court having



the competent jurisdiction. It is pertinent to mention that the show cause notice Dated: 30.05.2023 as well as demolition order both are appealable order within the provisions of Delhi Municipal Corporation Act. However, the petitioner herein has not filed any appeal and has straight forward come before this Hon'ble Court in writ jurisdiction which is contrary and not permissible in law.

- 8) The writ petition under reply is liable to be dismissed as the same does not disclose any cause of action and is not maintainable within the provision of Article 226 of the Constitution of India as efficacious remedy by filing an appeal against the sealing order as well as demolition order is available before petitioner, which petitioner can avail before Appellate Tribunal Municipal Corporation of Delhi. However, without exhausting the available efficacious remedy, the petitioner has knocked the door of this Hon'ble Court by misusing the writ jurisdiction of this Hon'ble Court to have unlawful order as prayed for. However, the same can only be pass through proper adjudication.

REPLY ON MERITS:

- 1) That the contents of para no.1, of the writ petition under reply is introductory in nature and hence needs no reply. However, the order Dated: 07.06.2023, passed by the respondent under which the respondent has sealed the subject property is an appealable order and the efficacious remedy against the aforesaid order is available with the petitioner by filling an appeal within provision of section 347(B) of Delhi Municipal Corporation Act, 1957, before Appellate Tribunal Municipal Corporation of

Delhi hence, invoking the writ jurisdiction of this Hon'ble Court by petitioner against the impugned order is highly unsustainable and contrary to the provisions of Delhi Municipal Corporation Act.

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3. Perusal of the aforesaid reply filed on behalf of the MCD clearly shows that the sealing action was undertaken by the MCD in terms of the directions and guidelines as pronounced by the Supreme Court in the case of “*M.C. Mehta Versus UOI*”, wherein, it was directed that any property which has been occupied or has been used for a purpose which is not sanctioned, would fall within the ambit of misuse of premises.
4. It is further seen from the reply of the MCD that contraband had been recovered from the property in question by the investigating agencies, and an FIR to that effect has also been lodged.
5. Further, it is the case of the MCD that they had duly served a Show Cause Notice upon the petitioner, to which no reply was received.
6. This Court also takes note of the submissions made by learned counsel appearing for the MCD that if the petitioner was aggrieved by any sealing action, the right course would have been to file an appeal before the Appellate Tribunal MCD (“ATMCD”).
7. Learned counsel appearing for the respondent-MCD has also shown the original file of the department with respect to the proceedings undertaken before the sealing action in question, was taken. The said file has been perused and duly returned.
8. None appears for the petitioner when the matter is called out.
9. Accordingly, considering the submissions made before this Court, no merit is found in the present writ petition.
10. The present writ petition, along with the pending application, stands disposed of.

MINI PUSHKARNA, J

OCTOBER 28, 2025/KR