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

+ **W.P.(C) 2754/2024**

SPK INFRASTRUCTURES PVT LTD AND ANR.....Petitioners

Through: **Mr. Kamal Sethi, Advocate.**

versus

**MUNICIPAL CORPORATION OF DELHI
AND ORS**

.....Respondents

Through: **Mr. Aditya Vaibhav Singh,
Mr. Gautam Singh and Mr. Ashutosh Kumar
Tiwari, Advocates for Respondent No.1/MCD.**

**Mr. Farman Ali and Ms. Usha Jamnal, Advocates
with ASI Devinder Singh and SI Satbir Singh, for
Respondent No.2/DP.**

**Mr. Kanwal Chaudhary and Mr. Ankit Kumar,
Advocates for Respondents No.3 to 5.**

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER
04.03.2025**

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1. This writ petition is preferred on behalf of Petitioners under Article 226 of Constitution of India seeking the following reliefs:-

“A. Pass a writ, order or direction in the nature of mandamus against the Respondents No. 1 to take action against the unauthorized construction/encroachment activity being done by the Respondent Nos. 3 to 5 at properties bearing no. WZ-622E, Shiv Nagar, New Delhi-58, WZ622C1, Shiv Nagar, New Delhi-58 and WZ-622D1 Shiv Nagar, New Delhi-58.

B. Pass a writ, order or direction in the nature of mandamus against the Respondents No. 1 to take action against the commercial activities being illegally carried out by the Respondent Nos. 3 to 5 at residential



properties bearing no. WZ-622E, Shiv Nagar, New Delhi-58 and WZ622C1, Shiv Nagar, New Delhi-58 and WZ-622D1 Shiv Nagar, New Delhi-58.

C. Pass a writ, order or direction in the nature of mandamus against the Respondents No. 1 to remove the gate permanently which has been illegally installed by Respondent Nos. 3 to 5 on public land at properties bearing no. WZ-622E, Shiv Nagar, New Delhi-58 and WZ622C1, Shiv Nagar, New Delhi-58.

D. Pass a writ, order or direction in the nature of mandamus against the Respondents No.2 to remove illegal parking in front of the property of the petitioner bearing no. WZ-91E, Shiv Nagar, New Delhi-58.

E. Pass a writ, order or direction in the nature of mandamus against the Respondent no. 2 to remove the barricades of respondent no. 3 to 5 being illegally used by the respondent no. 3 to 5 blocking the entire road next to the property WZ-91E, Shiv Nagar, New Delhi-58.”

2. Learned counsel for Respondent No.1/MCD submits that status report has been filed yesterday vide Diary No.1537806/2025. The same is not on record. Additional copy of the same has been handed over in Court and is taken on record. Copy of the status report is furnished to learned counsel for the Petitioners as also to learned counsel for Respondents No.3 to 5.
3. The present petition concerns three properties being WZ-622E, Shiv Nagar, New Delhi; WZ-622C1, Shiv Nagar, New Delhi; and WZ-622D1 Shiv Nagar, New Delhi.
4. Insofar as property bearing No. WZ-622E, Shiv Nagar, New Delhi is concerned, it is stated that after the sealing order was passed on 10.06.2024, owner/occupier of the property challenged the sealing order before this Court in a writ petition being W.P.(C.) No.8391/2024 titled ‘*Gurinder Singh v. Municipal Corporation of Delhi*’. By order dated 08.07.2024, Court restrained the MCD from taking any coercive action against the property till the appeal filed by the Petitioner was heard and decided by the ATMCD. Subsequently an appeal bearing No.493/2024 was filed by the Petitioner and



on 06.09.2024, MCD was directed by the ATMCD to maintain *status quo* in respect of the property and the interim protection is continuing. It is stated that the next date of hearing before the ATMCD is 01.05.2025.

5. Insofar as property bearing No. WZ-622C1, Shiv Nagar, New Delhi is concerned, it is stated in the status report that the property was jointly inspected by the concerned JE(B), JE(M-III), AE(M-III) and Licensing Inspector (General Branch) of West Zone of MCD on 01.03.2025. It is stated that the property is lying vacant and no commercial activity or storage has been found in the said property. Photographs in support of this inspection have been placed on record along with the status report.

6. Insofar as property bearing No. WZ-622D1 Shiv Nagar, New Delhi is concerned, it is stated that effort was made to inspect the property on 01.03.2025 in the afternoon but the property was found locked. After much persistence, the owner/occupier of the property allowed the Licensing Inspector to inspect the property in the evening of 01.03.2025. During inspection, some wooden chairs placed one over the other, plywood and certain other items were found along with remains of sawdust, which *prima facie* gives an impression that some kind of manufacturing activity is being carried out in the property and thus there is misuse. MCD has initiated proceedings under Section 345A of the Delhi Municipal Corporation Act, 1957 ('1957 Act'). Photographs are appended to the status report to support this plea.

7. Learned counsel for the Petitioners submits that insofar as property bearing No. WZ-622E, Shiv Nagar, New Delhi is concerned, the trade license stands cancelled and therefore, it is not open to the owner/occupier to carry on the commercial activity.



8. As far as this submission is concerned, at this stage, this Court is not inclined to interfere in the matter for the reason that this Court had passed an interim order protecting the owner/occupier from any coercive action and the order has been continued with ATMCD where the appeal filed by owner/occupier is pending. The next date of hearing is 01.05.2025 and it will be for the ATMCD to pass an order in accordance with law. No interference is warranted in respect of this property, at this stage.

9. Insofar as property bearing No. WZ-622C1, Shiv Nagar, New Delhi is concerned, it is the case of MCD that no commercial activity or storage was found running in the property. Hence, no interference is required.

10. Insofar a property bearing No. WZ-622D1 Shiv Nagar, New Delhi is concerned, there is an allegation of misuse of the property. Inspection report and photographs appended to the Status Report, according to the MCD support its stand and the stand of the Petitioners. However, Mr. Kanwal Chaudhary submits that this Court had directed MCD to pass a speaking order. The intent of the order was to bring on record the alleged unauthorised construction or misuse so that the Court is able to adjudicate the correctness of the stand of the Petitioners and the MCD and while speaking order has not been passed admittedly, in respect of the two properties, the owner/occupier is entitled to be given an opportunity of hearing before any further action is taken by MCD.

11. There is merit in the contention of Mr. Chaudhary to this extent. Accordingly, before taking any further action as proposed under Section 345A of the 1957 Act, MCD will grant an opportunity of hearing to the owner of the property, for which time, date and venue will be intimated in writing, well in advance. After hearing the owner/occupier of the property,



MCD will take action in accordance with law, complying with all applicable statutory provisions under 1957 Act and/or any other Bye-laws. The order will be communicated to the owner/occupier, who will be at liberty to take recourse to appropriate legal remedies, in case of any surviving grievance.

12. Writ petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

MARCH 4, 2025

B.S. Rohella