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

+ **W.P.(C) 2288/2025**

ESHAN GUPTA

.....Petitioner

Through: Mr. Abhishek Gupta, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Kapil Dutta, Advocate for MCD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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24.02.2025

CM APPL. 10757/2025

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 2288/2025 and CM APPL. Nos. 10756/2025

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

“(A) Direct the to the Respondent to immediately remove the encroachment of the public land measuring 13.6X 10.6X which was chabutra of the Municipal Corporation of Delhi.

(B) Direct the Respondent to demolish the illegal construction being carried out in comprises of basement , ground and four floors above the same making it complete six floors structure including the basement , in the premises No 624 - 625, Katra Ishwar Bhavvan, Main Road , Khari Baoli , Delhi-110006,”

4. Issue notice.
5. Mr. Kapil Dutta, learned counsel accepts notice on behalf of the Respondent.



6. It is the case of the Petitioner that he has approached the Special Task Force (STF) but since no action has been taken, he is compelled to invoke the writ jurisdiction of this Court as the unauthorized construction is on going in the subject property as also encroachment continues on the public land.

7. Mr. Kapil Dutta, learned counsel appearing on advance copy of the writ petition on behalf of MCD takes an objection to the maintainability of the writ petition on ground of non joinder of the necessary parties inasmuch as neither the STF nor the owner/occupier/builder of the subject property have been impleaded. Without prejudice to the said objection, it is submitted that subject property was inspected on 25.06.2024 and unauthorized construction was noticed in the shape of basement, mezzanine and fourth floor in one part and unauthorized construction also exists on municipal chabutra in the front portion at the first, second and third floors. Accordingly, show cause notice under Sections 344(1) and 343 of the Delhi Municipal Corporation Act, 1957 ('1957 Act') was issued on 25.06.2024 to Sh. Ashish Gupta and Sh. Anurag Garg to show cause why demolition order be not passed. This apart, sealing notice was issued on 28.06.2024 followed by sealing order dated 16.07.2024. After following due process of law, demolition order was issued on 04.07.2024 directing the noticees to demolish the unauthorized construction within six days failing which the same will be demolished at their risk and cost by MCD.

8. It is further submitted that the noticees failed to self-demolish the unauthorized construction and accordingly, demolition programme was fixed for 01.08.2024, however, no action could be taken due to paucity of time. Part demolition was carried out on 07.08.2024 wherein roof of the



fourth floor was demolished. Watch and ward letter dated 14.08.2024 was issued to SHO PS: Lahori Gate to keep strict watch and ward over the demolished portion so that the same is not reconstructed. Further demolition action was fixed on 03.09.2024 in which basement, mezzanine and fourth floor were sealed at 01 point each. Watch and ward letter dated 05.09.2024 was issued to the SHO, PS: Lahori Gate to keep strict vigil over the sealed portion so that the seals are not removed or tampered. It is submitted that remaining portion of the subject property was occupied and therefore vacation notices were issued on 09.09.2024 under Section 349 of the 1957 Act to the owners/occupiers to vacate the premises within 24 hours. Before further action could be taken, an application dated 22.11.2024 was received by MCD requesting for de-sealing the property temporarily for 30 days to carry out rectifications as per MCD Regulations. After approval from the Competent Authority, property was de-sealed on 27.01.2025 for 30 days to enable the occupants to rectify the unauthorized construction that exists and further action will be taken as required and in accordance with law.

9. In light of the aforesaid stand of MCD, no further order is required to be passed at this stage. Depending on the rectification carried out by the occupants of the subject property, further action will be taken by MCD and needless to state that any further action by MCD will be compliant with applicable statutory provisions under the 1957 Act and in consonance with the guidelines laid down by the Supreme Court in ***In Re: Directions in the matter of demolition of structures, 2024 SCC OnLine SC 3291***.

10. In case of any surviving/further grievance, Petitioner will be at liberty to take recourse to appropriate legal remedies. This order is passed without prejudice to the rights and contentions of the owner/occupier/builder of the



subject property.

11. Writ petition along with pending application is disposed of in the aforesaid terms.

JYOTI SINGH, J

FEBRUARY 24, 2025/Shivam