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

+ **CONT.CAS(C) 272/2022**

SUDHA BHATIA & ANR.

.....Petitioners

Through: Mr. Sanam, Advocate (through VC).
versus

**NORTH DELHI MUNICIPAL
CORPORATION & ANR.**

.....Respondents

Through: Mr. Raghvendra Upadhyay, Panel
counsel for GNCTD and Ms. Purnima
Jain, Advocate for R-1 and 2.
Mr. Kapil Dutta and Mr. Siddharth
Parashar, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

03.09.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Sections 11/12 of the Contempt of Courts Act, 1971 has been filed seeking the following prayers: -

"In view of the above facts and circumstances, the question of law and grounds mentioned above, it is, humbly and respectfully prayed that in facts and circumstances placed before The Hon'ble Court may kindly be pleased to :-

- a. Initiate Contempt proceedings against the Respondent no. 1 and 2 for their willful disobedience and failure to oblige Orders dated. 28.10.2021 and 17.12.2021 in the matter "Ms. Sushma Rastogi and others Vs NDMC and ors." In W.P (c) no. 12061/2021 and CM Application no 45738/2021.
- b. Summon The Commissioner and Deputy Commissioner, North MCD, Delhi and direct them to explain their position with respect to the non compliance of Order orders dated. 28.10.2021 and 17.12.2021 in the matter "Ms. Sushma Rastogi and others Vs NDMC and ors." In W.P (c) no. 12061/2021 and CM Application no 45738/2021.
- c. Summon the respondent no. 02 and direct him to explain his



position with respect to the non compliance of Orders Dated 28.10.2021 and 17.12.2021 and further issuance of appropriate direction for immediate de-sealing the mentioned shops i.e. shop no 721 and shop no 894 of Old Lajpat Rai Market, Chandni Chowk, Delhi 110006.

d. Issue appropriate directions to indemnify the mental and physical and economic loss of the petitioners, as per law, in the interest of Justice.

e. Any other order which this Hon'ble Court may deem fit and proper in the circumstances of the case be also passed, in the interest of justice, in favor of the petitioners.”

3. The present petition has been filed for non-compliance of the directions passed by a Coordinate Bench of this Court in W.P.(C) 12061/2021 *vide* Orders dated 28.10.2021 and 17.12.2021. The said writ petition, **W.P.(C) 12061/2021**, was filed by the petitioners herein along with others against the respondents herein seeking quashing of the proposed sealing action in respect of their shops situated in Old Lajpat Rai Market, Chandni Chowk, Delhi. Petitioners had also sought restraint on the respondents from implementing the order of sealing, if passed, for a period of four weeks to enable them to avail their legal remedies in accordance with law.

4. The Coordinate Bench on 28.10.2021 in W.P.(C) 12061/2021 passed the following order: -

“1. Petitioner seeks quashing of the proposed sealing action in respect of the shops of the petitioners. Petitioners further seek restraint on the respondent from implementing the order of sealing, if passed, for a period for four weeks to enable them to avail their legal remedies in accordance with law.

2. Learned counsel for the petitioner submits that the procedure being followed by the Corporation is to first seal the property and then serve a copy of the sealing order, thereby disentitling parties from availing the remedy of an appeal.

3. Learned counsel appearing for the respondent/Corporation disputes the same. She submits that a show cause notice has been issued and



an opportunity of hearing granted to all the owners/occupants of the respective shops.

4. She submits that in the case of some of the petitioners, some of the petitioners have already approached the Appellate Tribunal, MCD against the proposed demolition action and in those appeals, they have contended that they are power of attorney holders. However, present petition has been filed in their own name. She further submits that in four cases, sealing orders have already been passed. She further submits that petitioners are indulging in forum hunting.

5. Without prejudice to the rights and contentions of the parties, since contention of the petitioners is that there is likelihood of a sealing action being taken prior to service of the sealing orders and their right to file an appeal would be prejudiced, the petition is disposed of with a direction to the respondent to serve copies of the sealing orders wherever passed.

6. Learned counsel for the respondent submits that copies of sealing orders in respect of shops No. 431, 230, 637 and 840 has been communicated to learned counsel for petitioner, just now.

7. In respect of the aforesaid four cases, it is directed that sealing orders will not be given effect to till 12.11.2021, to enable the owners/occupiers of the said premises to avail of the remedy of an appeal before the Appellate Tribunal, MCD.

8. In respect of other shops, where the show cause notices have been issued and orders not yet passed, it is directed that the sealing order, if passed, shall not be implemented for a period of one week after the passing of the sealing order.

9. It is clarified that this interim protection shall continue to operate only till the aforesaid periods or till the time appeal is listed, whichever is earlier.

10. It is further clarified that this order has been passed only in the facts and circumstances of the case to enable the petitioners to avail the remedy of appeal. It does not in any manner decide or comment upon the controversy on merits. Further, the Appellate Tribunal proceed with the appeal without being influenced by anything stated in this order on merits.”

5. Thereafter, an application, **CM APPL. 45738/2021 (directions)**, was filed by the same petitioners seeking restraint on the respondents from sealing Shop Nos. 741, 721, 319, 558, 587, 13, 19, 60, 249 & 894, situated at Old



Lajpat Rai Market, Chandni Chowk, Delhi-110006, after receipt of sealing order till the disposal of interim stay application filed before the Appellate Tribunal-MCD. The Coordinate Bench of this Court *vide* order dated 17.12.2021 disposed of the aforesaid application by observing as under: -

“2. Learned counsel for the petitioner submits that subject application was filed for the reason that after the appeal is filed, the same is not immediately listed before the tribunal and in between the filing and the listing of the appeal, Corporation is likely to seal the properties, if the period of one week granted by order dated 28.10.2021, expires in the meantime.

3. Issue notice. Notice is accepted by learned counsel for the respondent-Corporation.

4. In view of the apprehension expressed by learned counsel for the petitioner, para 8 of order dated 28.10.2021 is modified to the extent that petitioner would be at liberty to file an appeal within a period of one week of the passing of the sealing order. In case the appeal is filed within a period of one week of the passing of the sealing order, the Registry of the Appellate Tribunal-MCD shall expeditiously list the appeal before the concerned tribunal and the interim protection shall continue till the time of listing of the appeal before the Appellate Tribunal-MCD.

5. It is further clarified that the interim protection thereafter shall be subject to the orders to be passed by the Appellate Tribunal-MCD, if any. It is further clarified that this protection shall be available to the petitioner only in case they file the appeal within one week of the passing of the sealing order and not thereafter.”

6. Pursuant to the passing of the aforesaid order, North Delhi Municipal Corporation/Respondent No.1 passed an order under Section 345A of the Delhi Municipal Corporation Act, 1957, on 27.01.2022 in respect of Shop Nos. 741 & 894 situated in Old Lajpat Rai Market, Chandni Chowk, Delhi, thereby directing the sealing of the property *forthwith* and that the said property shall remain in the personal custody of A.E.(Building), City SP Zone until further orders. Unauthorised construction in said properties was sealed



by the respondents on 24.02.2022.

7. Learned counsel for the petitioners has submitted that the respondents herein despite the interim protection granted by Coordinate Bench of this Court has acted in arbitrary manner and in contravention of the directions passed by the said Bench *vide* orders dated 28.10.2021 and 17.12.2021 as noted hereinbefore. Learned counsel has submitted that the petitioners herein had approached the learned Appellate Tribunal-MCD in exercise of their legal remedy as permissible under law. Attention of this Court has been pointed out towards paragraph 8 of order dated 28.10.2021, whereby it was directed that in respect of shops, as in the case of the present petitioners, where the show cause notices were stated to have been issued and orders not yet passed, it was directed that the sealing order, if passed, shall not be implemented for a period of one week after the passing of the sealing order. It is further submitted that the Coordinate Bench had further clarified that the interim protection granted was directed to operate till the expiry of the aforesaid period of one week or the listing of appeal whichever is earlier, and the petitioners herein had approached the learned Tribunal/MCD by way of appeal(s) on 03.02.2022, *i.e.*, within one week of the passing of sealing order dated 27.01.2022 and the respondents in complete disobedience of directions passed *vide* the aforesaid orders, on 24.02.2022 prior to listing of the appeals before learned Tribunal-MCD, had sealed the subject properties and thus, have committed contempt of the directions passed by this Court.

8. *Per contra*, learned counsel for the respondents/MCD has submitted that the latter have not disobeyed the directions passed by Coordinate Bench inasmuch as the petitioners have manipulated the procedure and delayed the listing of the appeals before the MCD Tribunal. It is submitted that the



appeals, Appeal Nos. 56/2022 & 58/2022, filed before the said Tribunal were listed belatedly after a period of 22 days of its filing on the “**Personal Request**” of the petitioners. He further submitted that when one of the said appeals, Appeal No. 56/22, filed by the petitioner herein was listed for hearing on 24.02.2022 before the learned Tribunal-MCD, no grievance as agitated in the W.P. (C) 12061/2021 was put forth and no such interim protection was sought by the petitioners before the learned Tribunal-MCD and the respondents have bonafidely taken action of sealing the premises as no stay or interim protection was granted by learned Tribunal-MCD on 24.02.2022. It is further submitted that the petitioners thereafter, on 02.03.2022 filed the present contempt petition instead of pursuing their legal remedies for which interim protection was sought by the petitioners from the Coordinate Bench of this Court. It is further submitted that the said appeals were withdrawn by the petitioners and other litigants on 18.04.2022 and neither any interim protection nor any request was ever made before the learned Tribunal-MCD with respect to the sealing of the subject properties. It is further submitted that the sealing of the properties of the petitioners was done on 24.02.2022 only under *bonafide* belief that no interim protection was granted by Tribunal-MCD in Appeal No. 56/22 which was listed on 24.02.2022 and by the time, it was realised that the other appeal, 58/2022, was listed on 25.02.2022, the said appeals were withdrawn *vide* order dated 18.04.2022. It is submitted that even on subsequent dates of hearing, *i.e.*, 08.03.2022, 21.03.2022, 23.03.2022, in the said appeals, only adjournment was sought and no arguments were advanced. Thus, no contempt is made out against the respondents.

9. Heard learned counsels for the parties and perused the record.



10. The sealing orders were passed by NDMC/respondent No.1 in respect of the properties of the petitioners herein on 27.01.2021. The petitioners filed appeals before the learned Tribunal-MCD on 03.02.2022. The said appeals, Appeal Nos. 56/2022 & 58/2022, were listed by the Registry of Tribunal-MCD for 24.02.2022 and 25.02.2022 respectively. It is therefore a matter of record that the appeals filed by the petitioners herein were within the time period of one week as directed by Coordinate Bench of this Court *vide* order dated 17.12.2021. However, they were listed on 24.02.2022 and 25.02.2022. The directions passed by the Coordinate Bench of this Court in W.P.(C) 12061/2021 *vide* orders dated 28.10.2021 and 17.12.2021 were that the sealing will not be done till the listing of the appeals and the interim order was subject to orders passed by the learned Appellate Tribunal-MCD. It is the case of the respondents that despite filing of the appeals on 03.02.2022, the said appeals were listed on 24.02.2022 and 25.02.2022 on the request of the petitioners. This, however, is refuted by the learned counsel for the petitioners. Moreover, order dated 28.02.2022 in Appeal No. 56/2022, shows that learned Tribunal-MCD listed the case for hearing on 08.03.2022 without any interim order and finally, the said appeal along with other appeals were withdrawn *vide* order dated 18.04.2022.

11. As already noted that the appeals of the petitioners, Appeal Nos. 56/2022 & 58/2022, were listed on 24.02.2022 and 25.02.2022 respectively and in absence of any order or interim protection by the learned Tribunal-MCD on 24.02.2022, the respondents sealed the subject properties on 24.02.2022. In the reply, it is stated that the respondents under the *bonafide* belief that no interim protection has been granted by the learned Tribunal sealed the premises and by the time, it was realised by the respondents that



the other appeal was listed on 25.02.2022, the appeals of petitioners were withdrawn by them on 18.04.2022. In this regard, it is noted that both the petitioners had filed the joint petition which were disposed of together. Thus, the assumption on behalf of the respondents that both the petitioners had filed appeals and were listed together on 24.02.2022 cannot be ruled out. The fact that the respondents did not seal the property till the listing of the appeals on 24.02.2022 shows that they were complying with the orders dated 28.10.2021 and 17.12.2022 passed by Coordinate Bench of this Court in W.P.(C) 12061/2021.

12. In view of the aforesaid facts and circumstances of the present case, no case of wilful disobedience is made out against the respondents.

13. In view thereof, the present petition is dismissed and disposed of accordingly.

14. Pending applications, if any, also stand disposed of accordingly.

15. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

SEPTEMBER 03, 2025/sn/ns