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

+ W.P.(C) 11407/2024

SHOJI CHACKO

.....Petitioner

Through: Mr. Gurpratap Singh, Advocate
M: 9999444500

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: Mr. Anil Mittal and Mr. Atul
Chauhan, Advocate for R-2
M: 9810064432
Email: anilmittal1@hotmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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30.04.2025

1. Learned counsel appearing on behalf of the petitioner draws the attention of this Court to the Status Report dated 27th March, 2025, wherein, it has been stated that certain action has been taken on the second floor of the property in question. He, however, submits that no such action has been taken on the ground floor of the property.

2. *Per contra*, learned counsel appearing for the respondent, i.e., Municipal Corporation of Delhi ("MCD"), submits that the petitioner is the owner of the second floor flat, while the respondent no. 2 is the owner of the ground floor flat, and respondent no. 3 is the owner of the first floor flat. He submits that there is no unauthorized construction in the first floor flat. Therefore, no action is required to be taken on the first floor flat, which is

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occupied/ owned, by respondent no. 3.

3. He further submits that as far as the ground floor flat is concerned, a Regularization Application is pending. He submits that further action shall be taken after finalization of the regularization application. He draws the attention of this Court to the Status Report dated 27th February, 2025, filed on behalf of the MCD, wherein, it has been stated as follows:

“xxx xxx xxx

3. This in continuation of the earlier report filed by the answering Respondent No.1 i.e. Building Department-1, West Zone, MCD, it is further submitted that Sh. Raj Pal Gupta and Smt. Prem Lata Gupta have submitted a regularization application along with supporting documents in respect of the property bearing No. C 18B at Ground Floor, Vatika Apartment, Mayapuri, New Delhi in the department on 24.02.2025.

4. That after scrutiny of the said regularization application, certain discrepancies were noticed. Accordingly, an I.N. was issued to the Sh. Raj Pal Gupta and Smt. Prem Lata Gupta vide this office letter No. D-637/EE(B)-I/WZ/2025/AE(B) dated 25.02.2025. The applicant was requested to take necessary actions within 10 days, failing which, the request for regularization shall be rejected without any further reference. Copy of the IN dated 25.02.2025 is annexed herewith as Annexure-‘A’.

5. Further action shall be taken in due course of time as per provisions of the DMCA Act and as per law.

xxx xxx xxx”

4. Learned counsel appearing on behalf of the respondent-MCD further submits that the petitioner, being the owner of second floor, has carried out various unauthorized construction, therein. He submits that an action has been taken by the MCD against the unauthorized construction on the second floor, which is owned by the petitioner herein. He draws the attention of this Court to the Status Report dated 27th March, 2025, wherein, it has been stated as follows:



“xxx xxx xxx

3. That the present status report is being filed before this Hon' ble Court in continuation of the earlier report filed by the answering Respondent No. 1 i .e. Building Department-I, West Zone, MCD, in compliance of the order of Hon' ble Court dated 27.09. 2024. That as per record it is submitted that subsequent to initiating action u /s 343 & 344 of the DMC Act against Property No. C-18F, Vatika Apartments, Mayapuri, New Delhi vide file No. EE(B)- I /WZ/UC/2024/286 dated 04.07. 2024 for unauthorized construction in the shape of addition /alteration and excess coverage against Standard Plan of DDA flat (the deviations are in the shape of construction of projections/balcony and enclosing of verandah to make it a room). Consequently, after following due process of law contained under section 343 of the DMC Act, demolition order was passed against the aforesaid property on 11.07.2024.

4. That in order to execute the aforesaid demolition order dated 11.07.2024 a demolition action programme for the area under which the aforesaid property is situated, was fixed for 06.08.2024 under the PS- Rajouri Garden, New Delhi. On that day during the demolition action, tow RCC projections/balconies situated at second floor and roof of the second floor were got demolished at the aforesaid property. Photographs taken during the demolition action are annexed herewith as **Annexure 'A'**,

5. That subsequent to aforesaid demolition action, a strict watch and ward letter vide No. D-458/EE(B)-I/WZ/2024-25/AE dated 09.08.2024 was issued to the SHO. PS - Rajouri Garden with the request to keep strict watch and ward over the said property so that the owner/occupier may not re-construct the Copy of letter dated demolished properly/ portion 09.08.2024 is annexed herewith as **Annexure 'B'**.

6. That further in compliance of the direction passed by the Hon' ble Court on 28.02.2025, the aforesaid property was inspected by the concerned AE and JE of Building Department-I, West Zone on 25.03.2025 and it was reported that the portions which were got demolished by the department on 06.08.2024 are lying in same condition. Now, there is unauthorized construction in the shape of projection and enclosing of verandah remains in the aforesaid property, which will be demolished by the department in due course of time, as per law.

xxx xxx xxx”

5. Learned counsel appearing for the MCD submits that further action

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shall be taken on the unauthorized construction existing on the second floor of the plot.

6. Considering the aforesaid submission made before this Court, it is directed that the Regularization Application with respect to the ground floor flat, owned/occupied by the respondent no. 2, shall be decided by the Department expeditiously, preferably, within a period of three months, from today.

7. In case any unauthorized construction exists on the ground floor flat of respondent no. 2, appropriate action shall be taken by the MCD on the ground floor flat, subject to outcome of the Regularization Application.

8. Further action on the second floor plot of the petitioner shall be taken by the MCD, and all the existing unauthorized construction, shall be removed forthwith.

9. In case, the parties are aggrieved by any non-action on the part of the respondent MCD, the parties shall be at liberty to approach the Special Task Force (“STF”), constituted by the Supreme Court in consonance with the directions issued by the Division Bench of this Court in the case of *Devender Versus Govt. of NCT of Delhi and Ors.*, in *W.P.(C) 1807/2018*, and *Fazruddin Versus DDA and Ors.*, in *W.P.(C) 4649/2017*.

10. Accordingly, with the aforesaid directions, the present petition, stands disposed of.

MINI PUSHKARNA, J

APRIL 30, 2025

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