



\$~25

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

+ **W.P.(C) 14909/2024 and CM APPL. 62553/2024**

SHARDA RANI

.....Petitioner

Through: Mr. Rishi Sehgal and Mr. Midhun Aggarwal, Advocates.

versus

DELHI CANTONMENT BOARD AND ORS

.....Respondents

Through: Mr. Ankur Mishra, Advocate for Respondent No.1/DCB.

Mr. T.P. Singh, Senior Central Govt. Counsel for Respondents No.2 to 4/UOI.

Mr. Shekhar Nanavaty and Ms. Shikha Gupta, Advocates for Respondents No.5 and 6.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.01.2025

%

1. This writ petition is preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:

“a. Directing the Respondent Nos. 1, 2, 3 and 4 to immediately exercise their power and perform their statutory duties as provided under the Cantonments Act, 2006, including those provided under Sections 248, 239, 249, 234, 247, and stop the construction/ erection being carried out on the property bearing No. 1/211/6 (Old No. 1/345), Sadar Bazar, Delhi Cantt., New Delhi – 110010 and to seal the same;

b. Directing the Respondent Nos. 1, 2, 3 and 4 to immediately demolish the construction already carried out on the property bearing No. 1/211/6 (Old No. 1/345), Sadar Bazar, Delhi Cantt., New Delhi – 110010;

c. Directing the Respondent Nos. 1, 2, 3 and 4 to initiate necessary prosecution against Respondent Nos. 5 & 6 for carrying out illegal and



unauthorized construction on the property bearing No. 1/211/6 (Old No. 1/345), Sadar Bazar, Delhi Cantt., New Delhi – 110010 and punish them to the fullest extent of the law;

d. Injuncting the Respondent Nos. 5 & 6 or their associates or any person interested in the property bearing No. 1/211/6 (Old No. 1/345), Sadar Bazar, Delhi Cantt., New Delhi – 110010, from carrying out any construction property bearing No. 1/211/6 (Old No. 1/345), Sadar Bazar, Delhi Cantt., New Delhi – 110010.

e. Appointing some independent agency to enquire into the matter and take necessary action against the erring officials of the Respondent Nos. 1 & 2;”

2. Learned counsel for Respondent No.1/Delhi Cantonment Board (‘DCB’) submits that Junior Engineer of DCB has vide report dated 27.05.2024 brought forth the unauthorised construction carried out in the first floor of the subject property by Sh. Rajender Singh, husband of Respondent No.5 and in exercise of powers conferred by Section 239 (1) of the Cantonments Act, 2006 (‘2006 Act’), vide notice dated 30.05.2024, he has been directed to stop the ongoing construction and Respondent No.2 has been requested to register a formal complaint against Sh. Rajender Singh for carrying out unauthorised construction. In exercise of powers conferred under Section 248 of 2006 Act, vide notice dated 30.05.2024, Rajender Singh has been directed to demolish the unauthorised construction in the subject property and on the same day a criminal complaint has been filed against Sh. Rajender Singh under Section 247 of the 2006 Act for unauthorised construction and the case is currently pending before the learned Judicial Magistrate, First Class, Dwarka Courts. Learned counsel further submits that a demolition order was also passed on 30.05.2024 under Section 340 of the 2006 Act, against which Rajender Singh has preferred an appeal under Section 340 of the 2006 Act before the Appellate Authority and the same is pending.



3. Learned counsel for the Petitioner submits that officials of DCB are acting in collusion with Respondent No.5 are not taking any steps for demolition of unauthorised construction and so far, no progress has taken place in the appeal filed by Sh. Rajender Singh, the husband of Respondent No.5 and this is deliberate.

4. Counsel for Respondents No.5 and 6 take an objection to the locus of the Petitioner to file this petition and without prejudice submits that the answering Respondents have a right to avail legal remedies against the demolition order and pending the appeal no order should be passed directing DCB to demolish any construction in the subject property, which in any case is neither illegal nor unauthorised.

5. At this stage, on a pointed query by the Court, counsel for DCB submits that the appeal filed by Sh. Rajender Singh is before the Principal Directorate of Defence Estates *albeit* notice is yet to be issued. He however, assures the Court that DCB will not seek unnecessary adjournments so that the proceedings conclude expeditiously.

6. From the status filed on behalf of DCB and the arguments canvassed on its behalf by the learned counsel it is evident that inspection of subject property has been carried out by DCB and work stop notice has been issued to Respondent No.5 and/or her husband. Criminal complaint has also been filed under Section 247 of the 2006 Act and the same is pending before the concerned Court. Sh. Rajender Singh has preferred an appeal under Section 340 of the 2006 Act before the Appellate Authority. Court is satisfied at this stage that necessary steps have been taken by DCB. Court is assured that efforts will be made by DCB to ensure that proceedings before the Appellate Authority are not unnecessarily protracted. No order is thus required to be



passed at this stage. It would be open to DCB to take further action with respect to the subject property in accordance with law. Needless to state that it would be open to the Petitioner to take recourse to legal remedies in case of any surviving/further grievance or in the event it is found that Respondent No.5/DCB is unnecessarily delaying the appellate proceedings.

7. Writ petition stands disposed of along with pending application.

JYOTI SINGH, J

JANUARY 14, 2025

B.S. Rohella