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

+ W.P.(C) 15179/2023 & CM APPLs. 60680-81/2023

SH CM JOHN & ANR. .... Petitioners

Through: Mr. R.M. Sinha, Mr. P.M. Sinha,  
Ms. Namita Sinha, Ms. Nandni  
Harsh, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI .... Respondent

Through: Ms. Sunieta Ojha, Mr. Abhay Dev  
Sharma, Advocates for MCD.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

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**23.11.2023**

1. The petitioners have filed this petition under Article 226 of the Constitution against a show cause notice dated 06.11.2023, by which they were directed to show cause as to why an order of demolition not be passed in respect of their property [*Flat No. 176, Pocket-23, Sector 24, Unity Apartment, Rohini, Delhi*]. The show cause notice records that it has been issued on account of an allegation of deviation/excess coverage against the sanctioned building plan. A rough sketch plan of the site and the unauthorised construction has also been annexed with the show cause notice.

2. The petitioners have annexed with the writ petition, a copy of an order dated 08.11.2023 passed by this Court in W.P.(C) 14613/2023 [*Suresh Kumar Singla vs. Municipal Corporation of Delhi And Ors.*],



filed by another resident of the colony. The aforesaid writ petition was disposed of with the following observations: -

*“1. The petitioner has approached this Court under Article 226 of the Constitution in respect of alleged unauthorised construction in flats in Unity Apartment Flats, Pocket - 23, Sector - 24, Rohini, Delhi.*

*2. According to the learned counsel for the petitioner, unauthorised construction has been carried out at the instance of respondent Nos. 4 to 7 herein.*

*3. Mr. Amit Singh Chauhan, learned counsel for the Municipal Corporation of Delhi [“MCD”], who appears on advance notice, submits that the property has been inspected and deviations from the standard building plan, having been found, MCD proposes to issue show cause notices to the owners/occupants of the properties within a period of two weeks from today. It is also stated that further action in accordance with law will be taken within eight weeks thereafter, if necessary, upon considering the replies to the show cause notices, if any.*

*4. In view of the aforesaid submissions of learned counsel for MCD, learned counsel for the petitioner states that no further orders are required in this writ petition, which stands disposed of.*

*5. It is made clear that the aforesaid submissions are recorded without prejudice to the rights and contentions of any owners/occupants of the subject property whose statutory remedies are reserved. The MCD is directed to take action strictly in accordance with law, and after complying with all statutory formalities.*

*6. In the event, the petitioner has any further grievance, with regard to unauthorised construction, he may approach the Special Task Force [“STF”], constituted by the Supreme Court vide orders dated 24.04.2018 and 18.07.2018 in W.P.(C) 4677/1985 [M.C. Mehta vs Union of India & Ors.]. This direction is made with reference to the decisions of the Division Bench in Devender vs. Govt. of NCT of Delhi and Ors [order dated 20.09.2018 in W.P.(C) 1807/2018], Sneh Lata & Anr. vs. North Delhi Municipal Corporation & Anr. [order dated 08.04.2019 in LPA 245/2019], in Himanshu vs. East Delhi Municipal Corporation & Anr. [order dated 31.07.2023 in W.P.(C) 8104/2022], and in a decision of the learned Single Bench in Abdul Gaffar vs South Delhi Municipal Corporation & Ors. [order dated 28.02.2019 in W.P.(C) 1773/2019].”*

3. The petitioners admittedly did not respond to the show cause notice prior to filing of the writ petition. The contention of Mr. R.M. Sinha,



learned counsel for the petitioners, is that the details of the exact excess coverage and deviation have not been stipulated in the show cause notice.

4. I am of the view that, if the petitioners were unable to appreciate the contention of Municipal Corporation of Delhi [“MCD”] from the show cause notice and the sketch plan included therein, they ought to have approached MCD for necessary clarification. They did not do so at the appropriate stage, and have instead filed the present writ petition.

5. Ms. Sunieta Ojha, learned counsel for MCD, who appears on advance notice, states that in the meanwhile, having regard to the fact that the petitioners did not respond to the show cause notice at all, a final order of demolition has been passed on 17.11.2023. Ms. Ojha is directed to serve a copy of the demolition order upon Mr. Sinha at the email address mentioned in the writ petition during the course of the day.

6. The order of demolition is appealable under Section 347B of the Delhi Municipal Corporation Act, 1957.

7. The writ petition, alongwith pending applications, is, therefore, disposed of with liberty to the petitioners to approach the Appellate Tribunal for the MCD [“ATMCD”] against the demolition order. All rights and contentions of the petitioners, including with regard to the specification of the unauthorised construction/deviation, are left open for agitation before the ATMCD.

**PRATEEK JALAN, J**

**NOVEMBER 23, 2023**

*“Bhupi”/*