

Sameer Siddiqui vs Municipal Corporation Of Delhi & Ors on 23 March, 2023

Author: Manoj Kumar Ohri

Bench: Manoj Kumar Ohri

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 16351/2022 & CM. APPL. 51300/2022
SAMEER SIDDIQUI

..... Pe
Through: Mr.Arun Kumar Verma, Adv

versus

MUNICIPAL CORPORATION OF DELHI & ORS....Respondent
Through: Mr.Sanjeev Sabharwal, Standi
Counsel with Ms.Shweta Singh
Advocate for MCD.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI
ORDER

% 23.03.2023

1. By way of the present petition filed under Article 226 of the Constitution of India, the petitioner, who claims to be the part owner of the vacant land in plot bearing No. A-34/2, falling in Khasra No.378/172, Johri Farm, Noor Nagar Extension, Okhla, New Delhi admeasuring 80 sq. yds. (hereinafter, referred to as the 'subject property'), is aggrieved by the unauthorized construction being carried out at the subject property at behest of respondents No. 4 and 5.

2. A Status Report has been placed on record on behalf of the Corporation. Relevant excerpt of the same reads as under:

"3. That, in compliance of the directions of this Hon'ble Court, an inspection of the subject area was carried by the Subordinate officers of the answering respondent/MCD on 09.12.2022. However, the petitioner failed to comply with the directions of the Hon'ble Court, as he did not join the inspection for inspection of the subject property.

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4. That, during inspection, subject property has been identified as Property No. 261, Gali No. 2, Johri Farm, New Delhi, which consists of Ground Floor to Fifth Floor. Photographs showing the present status of the property are annexed herewith as Annexure: A.

5. That, on consulting the office record, it has been revealed that demolition proceedings against this property stand initiated u/s 343/344 of the DMC Act vide U/c file No.498/B/UC/EE(B)-1/CNZ/2022 dated 23.09.2022 and 115/B/UC/EE(B)-I/CNZ/2023 dated 14.03.2023 for the unauthorised construction in the shape of Stilt, Ground Floor to Fifth Floor. Demolition order against subject property also stand passed on 07.10.2022. Copy of demolition order dated 07.10.2022 is annexed herewith as Annexure: B.

6. That, sealing proceedings u/s 345-A of the DMC Act was also initiated against this property and after following due process of law, sealing order also stand passed on 14.11.2022. Copy of sealing order u/s 345-A of the DMC Act dated 4.11.2022 is annexed herewith as Annexure: C.

7. That, in order to prevent further unauthorised construction at this property letters u/s 344(2) of the DMC Act bearing No. D/248/AE(B)-II1/CNZ/2022 dated 06.10.2022 and D/594/AE(B)-III/CNZ/2023 dated 14.03.2023 have been sent to the SHO, PS Jamia Nagar with the request that the unauthorised construction activity at this property be stopped by the Police immediately and workmen present in the premises be removed and the construction material including the tools, machinery etc involved in the execution of the work may be seized forthwith, so that no further unauthorised construction can be carried out at the site. Copies of letter u/s 344 (2) of the DMC Act dated 06.10.2022 and 14.03.2023 are annexed herewith as Annexure: D (Colly).

8. That, letters bearing No. D/283/AE(B)-II/CNZ/2022 dated 07.10.2022 and D/595/AE(B)-III/CNZ/2023 dated Digitally Signed By:NIJAMUDEEN ANSARI Signing Date:27.03.2023 17:48:55 14.03.2023 has also been sent to the concerned authorities of BSES and Delhi Jal Board for disconnection of electricity and water supply. A copy of the said letter has also been endorsed to the Sub-Registrar with the request not to register this property under Indian Registration Act, 1908. Copies of letters sent to BSES, DJB and Sub Registrar on 07.10.2022 and 14.03.2023 are annexed herewith as Annexure: E(Colly).

9. That, demolition actions against this property were planned during the month of November & December, 2022 and January, 2023 but the same could not be executed, due to the intermittent ban upon construction and demolition activities, imposed by the DPCC due to Poor Air Quality Index in Delhi & NCR.

10. That, further action against this property has been planned for 05.04.2023. Action against this property shall be taken on the said date subject to availability of Police Force."

3. Learned Standing Counsel for respondent / MCD submits that answering respondent would take requisite action expeditiously. The statement made on behalf of the answering respondent is taken on record.

4. In view of the foregoing discussion, the writ petition is disposed of with a direction that the requisite action be taken expeditiously in accordance with law, preferably within a period of 4 months from today.

5. In case, the petitioner remains aggrieved, he shall be at liberty to approach this Court again. Needless to state, that the owner/occupier of the subject property shall also be at liberty to seek remedy as available under law. Pending application, if any, stands disposed of as infructuous.

MANOJ KUMAR OHRI, J MARCH 23, 2023/v Digitally Signed By:NIJAMUDDEEN ANSARI
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