

(Interim Relief) Juj Pal Maggo vs State Of Nct Delhi And Ors on 20 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) 4335/2021, CM APPL. 13242/2021 (Interim Order),
CM APPL. 26280/2021 (Direction) and CM APPL. 39063/2021
(Interim Relief)
JUJ PAL MAGGO Pet
Through: Mr. A.K. Shukla, Advocate

versus

STATE OF NCT DELHI AND ORS. Resp
Through: Mr. Santosh Kr. Tripathi, Mr. A
Panwar and Mr. Mahak Rankawat, Advocates
respondents No.1 and 4
Mr. Tushar Sannu, Standing Counsel for M
with Mr. Azad Bansala, Advocate
Mr. Jai Sahai Endlaw, Advocate for respo
No.5

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

% 20.03.2023

1. By way of the present petition filed under Article 226 of the Constitution of India, the petitioner is aggrieved by the illegal and unauthorised construction stated to be carried out by respondent No.5 at property bearing Plot No.8 admeasuring 136+114=250 Sq. Yards comprised in Khasra No. 797, in the colony now known as Om Vihar located on Main Najafgarh Road, Uttam Nagar, New Delhi - 110059 (hereinafter referred to as the 'subject property').

2. The Status Report has been placed on record which reads as under:-

"2. That the deponent being aware of the facts of the case and on the basis of records available in the office and having read and understood the contents of the aforesaid Writ Petition, is Digitally Signed By:SANGEETA ANAND Signing Date:24.03.2023 11:45:03 competent to depose by way of the present status report in my official capacity as stated above.

3. That the present status report is being filed in compliance of the direction of the Hon'ble Court vide its order dated 20.07.2021.

4. That as per records maintained by the office of the answering respondent No. 2 & 3 / SDMC, a complaint about illegal and unauthorized construction on Plot No. 8, Main NG Road, Om Vihar, Uttam Nagar, was received in the office of SDMC. Subsequent, to receiving the said complaint said property was inspected by the concerned officials of the said area on 15.01.2021 and during inspection construction work was found in progress at the instance of Shri Subhash Maggo without permission from the SDMC. Accordingly, the property was booked under Section 343 & 344(1) of the DMC Act vide file No. EE(B)-II/WZ/UC/21/45 dated 15.01.2021 for u/c in the shape of raising of columns of basement and after following due process of law, demolition order against the said unauthorized construction was passed on 15.02.2021.

5. That pursuant to receiving of a complaint as well as on the basis of site inspection, the impugned property was again booked by the answering respondent No. 2 & 3 / SDMC for unauthorized construction at basement Floor, Ground Floor, First Floor, Second Floor and third Floor on 02.03.2021, 17.03.2021 and 20.05.2021 respectively. After following due process of law demolition orders were passed against the said unauthorized constructions on 30.03.2021, 19.04.2021 & 08.06.2021 respectively.

6. That letters under Section 344(2) of the DMC Act were also sent to the SHO, PS Uttam Nagar vide this office letter No.EE(B)-II/WZ/21 /D-1006 dated 21.01.2021 followed by letter Nos. D/1168/EE(B)-II/WZ/2021/AE(B) dated 25.02.2021 & D/o8/EE(B)-II/WZ/2021/AE(B) dated 06.04.2021. Copy of the letter dated 25.02.2021 and 06.04.2021 is annexed herewith Digitally Signed By:SANGEETA ANAND Signing Date:24.03.2023 11:45:03 as Annexure-'A'.

7. That letters to DJB, BSES and Sub-Registrar for disconnection of water supply, electricity and not to register the property for sale and purchase respectively have also been sent vide this office letter No. D / 1276/EE(Bldg.)-II/WZ/2021 /AE(B) dated 23.03.2021 followed by letter No. D-75/EE(B)- II/WZ/2021/AE(B) dated 10.06.2021. Copy of the letter dated 23.03.2021 and 10.06.2021 is annexed herewith as Annexure- 'B'.

8. That further for prosecution of the offender under Section 466A of the DMC Act, letters vide No. D-13/EE(B)- II/WZ/P/2021 dated 23.03.2021 & D-29/EE(B)-II/WZ/P/2021 dated 01.07.2021 have also been sent to the SHO, PS Uttam Nagar, New Delhi.

9. That further, to desist the owner/builder from carrying out further unauthorized construction in the property, action under Section 345-A of the DMC Act for sealing of alleged unauthorized construction in the property has also been initiated and Show Cause Notice No. 33/EE(B)-II/WZ/SR/2021 dated 24.06.2021 has been issued by the

Competent Authority to the owner/builder Shri Subhash Maggo.

10. That a demolition action against the alleged unauthorized construction in the property was also taken on 01.04.2021 in the presence of police force of PS Uttam Nagar where the roof slab of First Floor was demolished by cutting reinforcement with the help of gas cutter of two panels of First Floor.

11. That thereafter for regularization of impugned property Shri Subhash Maggo alias Subhas Chander and Shri Aman Maggo had submitted an application in the department supported with documents but on scrutiny of the said regularization file, some discrepancies were found and accordingly an I.N. was issued to the applicants vide this office letter No. D-93/EE(B)- II/WZ/2021/AE dated 15.06.2021 with the request that needful Digitally Signed By:SANGEETA ANAND Signing Date:24.03.2023 11:45:03 be done within 05 days, failing which, request for regularization will be rejected without any further reference. In compliance of said I.N. the applicants have submitted his reply in the department on 21.06.2021 alongwith copy of ownership chain but failed to submit remaining documents. Accordingly, another I.N. vide this office letter No. D-110/EE(B)-II/WZ/2021/AE dated 25.06.2021 was issued to the applicants with the request to submit remaining documents within 05 days in the office to enable this office to process the regularization case further but in compliance of said letter they submitted only copies of water harvesting & structural stability certificates. As such, since the applicants failed to submit requisite documents in the department, even after given opportunity to provide the same, the regularization case in respect of impugned property was rejected by this office vide letter No. D-155/EE(B)-II/WZ/2021 dated 13.07.2021. Copy of the rejection of regularization letter dt. 13.07.2021 is annexed herewith as Annexure-'C'.

12. That a demolition program against impugned property was fixed for 19.07.2021 but due to non-availability of police force by the concerned police station, action could not be taken on that date.

13. That a special demolition program against the impugned property was fixed for 26.07.2021 & 27.07.2021. Consequently demolition action was taken where by 06 panel of Fourth Floor roof, 04 panels of Third Floor roof & 01 panel of Basement roof was demolished and made unusable. Further, 19 numbers of partition wall at Fourth Floor & 17 numbers of partition wall at Third Floor were also got demolished. Photographs taken as the time of demolition action is annexed herewith as Annexure-'D'.

14. That during special demolition action, First & Second Floor were found occupied in the shape of running temporary hospital, whereas, the Ground Floor was being used as parking. Consequently, to take demolition action against the portion which was found occupied, a vacation notice vide letter vide Digitally Signed By:SANGEETA

ANAND Signing Date:24.03.2023 11:45:03 No. D/197/EE(B)-II/WZ/2021 dated 26.07.2021 was issued to the owner/occupier with the direction to vacate the premises within 12 hours. But since the owner/occupier did not vacated the premises in compliance of notice issued to him, a letter was again sent to SHO Uttam Nagar vide No. D-217/EE(B)- II/WZ/2021/AE dated 30.07.2021 with the request to get vacated the premises immediately so that demolition action against the impugned property could be taken by the department.

15. That during the demolition action on 27.07.2021 in order to desist the department from taking the demolition action against the impugned property the owner/occupier had gathered huge mob at site for which a compliant has also been lodged by this office against the defaulter on 28.07.2021. Copy of complaint dt 28.07.2021 is annexed herewith as Annexure-'D'.

16. That further for sealing of the impugned property a sealing action is initiated under Section 345-A of DMC Act by the department and was sent for approval from the Competent Authority. As soon as approval is accorded by the Competent Authority further action for sealing of the property will be taken, subject to availability of police force of the concerned PS Uttam Nagar.

It is stated further that action shall be taken as per DMC Act in due course of time."

3. Learned Standing Counsel for MCD, on instructions, submits that the further action is now planned for 05.04.2023.

4. Learned counsel for respondents No.1 and 4, on instructions, submits that the necessary police assistance would be provided as and when the same is requested by the MCD.

5. In view of the above, the present petition is disposed of alongwith the pending applications with a direction that needful action be taken Digitally Signed By:SANGEETA ANAND Signing Date:24.03.2023 11:45:03 expeditiously preferably within a period of six months from today.

6. Needless to state that the owner/occupier shall be at liberty to seek remedy as available under law.

MANOJ KUMAR OHRI, J MARCH 20, 2023 na Digitally Signed By:SANGEETA ANAND Signing Date:24.03.2023 11:45:03