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

+ **W.P.(C) 14454/2023 & CM APPL. 57273/2023**

**BABY ADIRA JATIA & ORS.**

..... Petitioners

Through: Ms. Manali Singhal, Ms. Shreya Singhal, Mr. Santosh Sachin & Ms. Aanchal Kapoor, Advocates.

versus

**UNION OF INDIA & ORS.**

..... Respondents

Through: Ms. Shubhra Parashar, Mr. Deepesh Chaudhary, Mr. Virender Pratap Singh, Mr. Yash Hari Dixit & Mr. Akshay Kumar, Advocates for R-1/IOI.

Mr. Tushar Sannu, Standing Counsel with Mr. Rajbir Singh, AE Building, MCD Department.

Mr. Akhil Ranganathan, Proxy Counsel Ms. Ishita Agarwal, Advocate for R-4.

Mr. Samar Bansal, Mr. Vedant Kapur, Mr. Kaustubh Chaturvedi & Mr. Madhav Gupta, Advocates for R-5 & 6.

**CORAM:**

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

**ORDER**

**10.11.2023**

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1. By order dated 04.11.2023, Municipal Corporation of Delhi ["MCD"] was directed to file an affidavit relating, *inter alia* as to the following aspects:-

*"12 Mr. Sannu is directed to take into his own custody, the*



*original record relating to the sealing action and the demolition action, and to produce the same before the Court on the next date of hearing. MCD will also file an affidavit by 09.11.2023, dealing inter alia with the provenance of the complaint dated 14.09.2023, whether there was any other complaint in respect of the subject property received by MCD by any means, service of the show cause notices and orders mentioned above, and the reasons for which action was taken only in respect of the basement and second floor of the property, despite a finding of unauthorised construction in the ground floor, mezzanine floor and the first floor also. MCD will also place on record the documents relating to the sanctioned plan and whether any further application for construction was made in regard to the subject property. ”*

2. MCD has filed an affidavit which deals with some of these aspects, but significantly no explanation has been offered as to why action was taken only in respect of the basement and second floor of the property, despite a finding of unauthorised construction in the ground floor, mezzanine floor and the first floor also. MCD is directed to file a further affidavit within two weeks in this regard.

3. The facts of the present case also raise some questions with regard to the manner in which complaints with regard to unauthorised construction are dealt with. Several cases are filed in this Court every week in which it is alleged that MCD has taken no action despite several complaints having been submitted regarding a particular construction. I am of the view that a mechanism is required to be evolved, if not already in place, to ensure that the action is systematic, transparent and even-handed. To this end, the affidavit to be filed by MCD will also deal with the following issues:-

- a. What is the manner in which complaints can be made to MCD with regard to unauthorised construction in the premises? In the event complaints are made by telephone or personally, whether any



- record is maintained of such complaints?
- b. How are decisions made regarding priority for taking action in respect of such complaints, including the level at which such prioritisation occurs and the factors which inform the decision?
  - c. With regard to issuance of notices for sealing, demolition etc, how is the identity of the proposed noticee determined? What records are looked into for this purpose?
  - d. What are the modes of service utilised to ensure service of show cause notices? Is any evidence maintained of efforts to serve notices upon the owners/occupiers personally, if such service was unsuccessful?
4. In order to assist the Court in this matter, Deputy Commissioner, South Zone, MCD, who passed the sealing order in the present case, is requested to remain present in Court on the next date of hearing.
5. I am informed that respondent Nos. 5 and 6 intend to file an appeal against the sealing order before the Appellate Tribunal for MCD. The proceedings in the appeal may proceed, despite the pendency of this writ petition.
6. List on 15.12.2023 at 2:30 PM.
7. Interim orders to continue.

**PRATEEK JALAN, J**

**NOVEMBER 10, 2023**

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