

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**
ORIGINAL APPLICATION NO. 1072/2018

In the Matter of:-

Nanak Singh, General Secretary,
Tuglakabad Bistar

...Petitioner

Versus

Govt. of NCT of Delhi

.Respondent

I N D E X

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New Delhi

Dated



(KUSH SHARMA)
COUNSEL FOR SDMC
430-431, LAWYERS CHAMBERS
DELHI HIGH COURT, NEW DELHI

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**STATUS REPORT BY WAY OF AFFIDAVIT OF SH. B. S. YADAV,
EXECUTIVE ENGINEER (BLDG.), CENTRAL ZONE, SOUTH DELHI
MUNICIPAL CORPORATION ON BEHALF OF RESPONDENT, SDMC**

I, the above named deponent do hereby solemnly affirm and state here as under:-

1. That deponent is presently posted as Executive Engineer in Building Department-II of Central Zone of South Delhi Municipal Corporation. I have gone through the relevant records maintained by Building Department-II of Central Zone of SDMC and placed before me. On the basis of records placed before me, I have made myself conversant with the facts of the present case and therefore, I am competent to swear the present affidavit.

2. That present status report is being filed in compliance of order dated 14.10.2019 of this Hon'ble Tribunal and in continuation of earlier reports filed by the department.

3. That, property wise report in compliance of the directions of this Hon'ble Tribunal is as under:-

- i. Property adjoining Flat No. 542, Street No. 21, Tughlakabad Extension, New Delhi:-

The aforesaid property has been identified by the department, as Property No. RZ-514/21 adjoining 542/21, Tughlakabad Extension, New Delhi, which consists of Ground Floor to Third Floor. Accordingly, action u/s

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343/344 of the DMC Act was initiated vide U/c file No. 821/B/UC/EE(B)-II/CNZ/2019 dated 24.12.2019. Simultaneously, sealing proceedings u/s 345-A of the DMC Act was also initiated against this property. After following due process of law demolitions as well as sealing orders were passed.

Besides above, a letter bearing No. D/1316/AE(Bldg.)-I/Central Zone/ 2020 dated 14.02.2020 for disconnection of electricity and water supply at this property was sent to the concerned authorities of BSES and Delhi Jal Board. A copy of the said letter has also been endorsed to the Sub-Registrar, GNCT of Delhi with the request not to register this property under Indian Registration Act, 1908.

Demolition action against this property has been taken by the department on 21.01.2020. During the action 02 number of RCC roof panels at roof of third floor were demolished. After demolition action, a letter has also been sent to the concerned SHO with the request to keep strict watch over this property, so that Owner/ Builder may not be able to restore the demolished portion.

ii. Property No. RZ-541, Street No. 22, Tughlakabad, New Delhi:-

In respect of subject property, it is submitted that sealing action against this property has been taken by the department on 11.12.2019. During the action, two rooms of Fourth Floor of the property was sealed at two points. Action against rest of the property could not be taken, as the same was found occupied. Further action against this property will be taken as per law.

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iii. Property No. RZ-3143, Street No. 35, Tughlakabad Extension, New Delhi:-

In respect of subject property, it is submitted that sealing action against this property has been taken by the department on 11.12.2019. During the action, basement of the property was sealed at one point at main entry. Action against rest of the property could not be taken, as the same was found occupied. Further action against this property will be taken as per law.

iv. Property No. RZ-547, Street No. 21, Tughlakabad Extension, New Delhi:-

With regard to subject property, it is submitted that aggrieved with actions initiated by the department, against this property, Owner/ Builder of the property filed an appeal before the Hon'ble ATMCD in appeal No. 461/ATMCD/2019 and the Hon'ble Appellate Tribunal vide its order dated 21.08.2019 granted interim stay, which are still continue. Next date of hearing in the said appeal has been fixed for 03.03.2020. Copy of orders of Hon'ble ATMCD passed on 21.08.2019 and 08.11.2019 are annexed herewith as **Annexure: A (Colly)**.


DEPONENT

VERIFICATION:-

Verified at New Delhi on this ___ day of December, 2019 that the contents of the above affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed therefrom.


DEPONENT

A.No. 461/19.

21.08.2019

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Present : Sh. Ranvir Singh, Ld. counsel for appellant.

Sh. Ashutosh Gupta, Ld. counsel for SDMC.

Documents filed on behalf of appellant, copy supplied.

Be listed for orders at 4.00 pm.

(POONAM CHAUDHARY)
AD&SJ-cum-P.O.
Appellate Tribunal:MCD
21.08.2019

A.No. 461/19

21.08.2019

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Present : Sh. Ranbir Singh, Ld. Counsel for appellant.
Sh. Ashutosh Gupta, Ld. Counsel for respondent.

This is an appeal against the order of demolition.

Documents have been filed on behalf of the appellant, copy supplied.

Fresh Vakalatnama filed on behalf of the respondent.

Time is sought to file the status report and record.

Ld. Counsel for appellant has pressed for application for interim stay on the ground that otherwise appeal will become infructuous.

Briefly stated the facts of the case are that appellant purchased the property in question bearing No.RZ-547/21 Gal No.21 out of Khasra No.438 situated in the area of Tughlaka Bad Extension, New Delhi-19 vide agreement to sell, General Power of Attorney, receipt on 29.04.1980. It is further stated that appellant had only carried out renovation in the property in question when all of a sudden the officials of the respondent came to the property of the appellant and took photographs. It is stated that thereafter on 02.08.2019 officials of the respondent again visited the property in question and handed over two notices u/s 349 and section 345A of the DMC Act dated 31.07.2019 and 30.07.2019. From the said notice appellant came to know about the demolition order on 01.10.2019. It is alleged that the said order was never served upon the appellant.

It is also stated that respondent without giving any opportunity of hearing demolished the property of the appellant on 05.08.2019 and has threatened to take further action. It is also stated that officials of the respondent are adamant to seal the property in question. It is also stated that the property of the appellant is in the regularization category and DMC Act is not applicable to it. It is further alleged that the property in question is protected by the National Capital Territory of Delhi Laws (Special Provision) Act.

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As per the contention of the Ld. Counsel for appellant the third floor of the property in question has been in existence since long. It is further submitted that the appellant is paying house tax for the ground floor, first floor, second floor and third floor, a copy of house tax assessment order of 1993 and house tax challans of the ground floor, first floor, second floor and third floor filed. A copy of lease agreement of second floor and third floor of the property in question dated 06.04.2005 also filed.

In view of the submissions of Ld. Counsel for appellant that construction is old and protected, till next date of hearing there shall be interim stay, respondent is restrained from taking further demolition action in the property in question bearing No. RZ-547/21 Gal No.21 out of Khasra No.438 situated in the area of Tughlaka Bad Extension, New Delhi-19 till next date of hearing pursuant to the impugned demolition order. However, this order is subject to any other order passed by the Hon'ble Supreme Court/Hon'ble High Court in respect of the property in question.

Appellant is directed to file affidavit giving details of construction with measurement of the existing construction alongwith existing site plan and photographs of the property in question within five working days, failing which stay order granted shall deemed to be vacated.

Copy of the affidavit will be provided to concerned AE(B) by the appellant, who shall verify whether details of construction mentioned in the affidavit is correct or not.

Appellant is also directed not to carry out any addition, alteration, repair or construction and shall also not create any third party interest in the property in question.

Be listed for arguments on stay application on 18.09.2019.

A copy of the order be given dasti to Ld. Counsel for parties, as prayed for.

(POONAM CHAUDHARY)
AD&SJ-cum-P.O.

A.No. 461/19.

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08.11.2019

Present : Appellant in person.

None for respondent.

Lawyers are abstaining from work today.

To come up for final arguments on 03.03.2020.

Interim orders, if any, to continue till next date.

(POONAM CHAUDHRY)
AD&SJ-cum-P.O.
Appellate Tribunal:MCD
08.11.2019