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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% *Date of decision: 14<sup>th</sup> June, 2024*

+ **W.P.(C) 8641/2024**

NAGMA SHEERIN AND ORS

..... Petitioner

Through: Ms. Anam Siddiqui and Mr.  
Aishwary Mishra, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS.. Respondents

Through: Mr. Sanjeev Sabharwal Standing  
Counsel for MCD.

Mr. Anuj Aggarwal ASC, GNCTD  
with Ms. Harshya Singh and Mr.  
Yash Upadhyay, Advocates for R-2  
and R-5.

Mr. Raghav Awasthi, Advocate for R-  
3.

**CORAM:**  
**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T (oral)**

**CM APPL. 35379/2024 (Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 8641/2024 & CM APPL. 35389/2024 (under Section 151 CPC  
filed by the petitioner praying for an order of status quo)**

3. The Writ Petition under Article 226 of the Indian Constitution has



been filed on behalf of the petitioner, with the following prayers.

- “A. Direct the Respondents to maintain status quo over the property till the pendency of the writ petition.  
B. Quash/Set aside the vacation notice dated 27.04.2022.  
C. Direct the Respondent No. 1 to hear the representations of the Petitioners before any demolition is allowed.  
D. Pass any such further order as your lordships may deem fit in the facts & circumstances of the case.”*

4. The Application under Section 151 of the Code of Civil Procedure has also been filed for directing *status quo* to be maintained by the parties.
5. Essentially, in the Writ Petition, it is stated that the respondent No. 6, Mr. Naushad Alam had obtained possession of the Suit Property measuring 100 sq. yds. through a General Power of Attorney (GPA) for consideration of Rs.3,00,000/- and another Suit Property measuring 71 sq. Yds for Rs.6,00,000/-. He has been paying house tax for the period 2012-2013 on 19.05.2023. The petitioners, who are the residents of the Suit Property, had purchased separate flats/apartments in the property from respondent No. 6, through various Sale Agreements/Power of Attorney and are in possession of their respective flats.
6. It is submitted that MCD had issued a Show Cause Notice to respondent No. 6 claiming the construction to be against the sanctioned plan and building bye-laws, 1983. Consequently, sealing proceedings were also initiated under Section 345A of the Delhi Municipal Corporation Act, 1957, followed by order to disconnect the utilities. Thereafter, one Mr. Habib Ahmad filed a Suit seeking injunction against the respondent No. 6, which was ultimately dismissed by the District Court by observing that there was



dispute to the ownership of the subject property and no injunction was granted.

7. Mr. Habib Ahmad then filed a Writ Petition bearing W.P.(C) 15160/2022 against the respondent No. 1 to take action against the unauthorized construction. The Writ Petition was disposed of *vide* Order dated 03.05.2023 with the directions to the MCD to take action in accordance with law and granted interim protection to the respondent No. 6, to be able to approach the Appellate Tribunal, MCD (ATMCD). Subsequently, Appeal was dismissed on 02.02.2024.

8. The petitioners has asserted that no Show Cause Notices, Demolition Orders or Vacation Notices, have been given to them whereby the rights have been violated and no right of hearing has been given, which is violative the principles of natural justice.

9. It is submitted that the proposed demolition of property would render the residents homeless. The act of the MCD in carrying out the demolition is absolutely arbitrary. The Orders and the Notices issued to the respondent No. 6, cannot be extended to individual residents nor any action can be taken, without giving Notice to the petitioners. Hence, the stay is sought against the Vacation Order dated 29.04.2023. A prayer is made that the respondents be directed to maintain *status quo* over the Suit Property, till the disposal of the Writ Petition and to quash the Vacation Order dated 27.04.2022.

10. **The grant of interim relief, at this stage, is opposed on behalf of the MCD.** The learned counsel appearing on behalf of the MCD, has vehemently argued that this is a completely unauthorized Building and due process has been followed as the Notices under the relevant provisions of



the DMC Act were given to the respondent No. 6 who was the Builder of the suit premises. The petitioners herein have subsequently purchased this property on the basis of the Agreement to Sell and other documents, they cannot claim to be having any settled entitlement in the suit premises and are bound by the proceedings already undertaken against the respondent No. 6.

11. **Submissions heard.**

12. Issue notice.

13. Learned counsel accepts notice on behalf of the respondent Nos. 1, 2, 3 and 5.

14. Learned counsel appearing on behalf of the respondents, seek time to file their Reply.

15. Let the Reply be filed by the respondent No. 1, before the next date of hearing, with copy to the opposite counsel.

16. Let notice be issued to the respondent Nos. 4 and 6, through ordinary post and electronic modes, returnable on 08.07.2024, before the Roster Bench.

17. Be listed on 08.07.2024 before the Roster Bench.

**NEENA BANSAL KRISHNA  
(VACATION JUDGE)**

**JUNE 14, 2024/RS**