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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11744/2022, CM APPL. 34946/2022, CM APPL.
43737/2023 & CM APPL. 43738/2023

SMT. SANTOSH & ORS.

.....Petitioners

Through: Mr. Tarun Diwan and Ms. Suruchi
Mittal, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI
& ORS.

.....Respondents

Through: Mr. Tushar Sannu, SC with Mr.
Harsh Yadav, Advocate for MCD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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24.12.2024

CM APPL. 76569/2024 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 76439/2024 (stay)

1. The petitioner has approached this Court by way of this application, for an order of stay against a show cause notice dated 16.12.2024 issued by the Municipal Corporation of Delhi ["MCD"]. The MCD has alleged unauthorised construction, in the shape of ground floor with projection on the municipal land, in the petitioners' property bearing MA No. 305, Gokul Pur, in the abadi of Amar Colony, Harijan Basti, Gokulpur, Illaqa Shahdara, Delhi-110094.

2. The petitioners have filed this writ petition with regard to unauthorised construction in the same property, which, according to the petitioners, has been raised at the instance of other occupants. By order



dated 09.10.2024, MCD was directed to file an up-to-date status report, and the petition is scheduled to be listed on 15.01.2025.

3. According to the petitioners, MCD has since issued the impugned show cause notice dated 16.12.2024, although the earlier status reports filed by MCD indicate that the portion of property which is in the petitioners' occupation is old and occupied. The petitioners contend that their property is entitled to the protection to the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2023.

4. I am of the view that no stay of proceedings is appropriate at this stage. I am informed that petitioners have replied to the show cause notice on 23.12.2024. The matter is still under consideration by MCD. All rights and contentions of the petitioners will be considered by MCD.

5. For the present, MCD will consider the petitioners' reply to the show cause notice and pass a speaking order thereupon. In the event the petitioners' contention is found to be incorrect, the order will be served upon the petitioners. Further action will be deferred for a period of 15 days, in order to enable the petitioners to take their appellate remedies before the Appellate Tribunal of MCD ["ATMCD"]. Such a direction is in consonance with the judgment of the Supreme Court dated 13.11.2024 in *In Re: Directions in the matter of demolition of structures* [WP (C) 295/2022 and connected matters], which provides for an opportunity of judicial redress against a demolition order.

6. The application is disposed of with these directions.

PRATEEK JALAN, J

DECEMBER 24, 2024/MR/JM/