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

+ W.P.(C) 12744/2022

DR. S. JAITLEY & ANR. Petitioners

Through: Petitioners in – person.

versus

MUNICIPAL CORPORATION OF DELHI & ORS..... Respondents

Through: Mr. Sanjeev Sagar, Standing Counsel for MCD with Ms. Nazia Parveen, Advocate for R-1 with Mr. Sanjay Kumar, AE.
Mr. Ravi Kapoor, Mr. Sarthak Jain and Ms. Yukti Mahi Bawa, Advocates for R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **06.09.2022**
CM APPL. 38730/2022 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 12744/2022 & CM APPL. 38729/2022

1. The Petitioners, who appear in – person, have filed the present Public Interest Litigation on behalf of the residents of Katra-Neel Chandani Chowk, Delhi-06 stating that unauthorized and illegal commercial construction is being carried out over the property bearing No.15, Baag Dewar, Chandni Chowk, Delhi-06 which is a residential zone.
2. It has been brought to the notice of this Court by the Ld. Counsel for

the MCD that MCD had issued notices for demolition of the alleged unauthorized and illegal constructions. However, in Civil Suit bearing CS No.1682/2022 tiled as M/s Laxmivila Infratech Pvt Ltd vs. MCD, a direction has been issued to the MCD not to take any coercive action of demolition or sealing without following the due process of law and without giving adequate opportunity of hearing. The Ld. Trial Court has also granted permission to M/s Laxmivila Infratech Pvt Ltd to carry out minor repair works over the suit property. It is further submitted by the Counsel for the MCD that under the garb of the order granting permission to carry out minor repair works by the Ld. Trial Court, the structure of the property in question is being materially altered and is being converted into a commercial complex by constructing floors/partitioning floors.

3. The statement made by the Ld. Counsel for the MCD has been controverted by the Counsel appearing for Respondent No.2.

4. In order to find out as to whether only minor repair works are being carried out or the structure of the property in question is being altered and being converted into commercial complex by constructing floors/partitioning floors, this Court is inclined to appoint Mr. Pritish Sabharwal, Advocate, who is present in Court, as the Court Commissioner to inspect the property in question and to submit a detailed report in the matter. The Court Commissioner shall be free to videograph the construction, and shall inform the date and time of inspection to the Petitioners as well as the Respondents. He is requested to submit the report within a period of fifteen (15) days from today.

5. The report shall include the various orders passed by the Ld. Trial Court from time to time, and a specific statement with all minute details as

to whether only minor repair works are being carried out or the structure of the property in question is being altered and is sought to be converted into a commercial complex by raising fresh constructions/partitioning existing floors.

6. It is directed that, till the next date of hearing, no construction of any kind shall take place in respect of the property in question.

7. The MCD is directed to ensure strict compliance of the order passed by this Court today.

8. The Commissioner of Police, Delhi shall provide all logistical support to the Court Commissioner as well as the visiting team while carrying out the inspection.

9. Let a copy of this Order be brought to the notice of the Commissioner of Police, Delhi.

10. On filing process fee, let notice be issued to Respondent Nos.3 and 4 through all modes, including *Dasti* in addition.

11. List on 23.09.2022.

12. Let a copy of this Order be given *Dasti* under the signature of Court Master.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

SEPTEMBER 6, 2022

S. Zakir