

4.

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

+ W.P.(C) 3535/2008

RAJENDER JAIN Petitioner
Through Mr. Rajesh Aggarwal, Advocate.

versus

M.C.D ITS COMMISSIONER & ORS. Respondents
Through Mr. Sanjeev Sabharwal, Standing Counsel for
MCD.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **04.02.2010**

1. Learned counsel for the petitioner states that they have submitted an undertaking in terms of the order passed by the Supreme Court and as requested by MCD.
2. Learned counsel appearing for MCD, on instructions from Mr. B.S. Meena, Assistant Engineer, MCD, admits that petitioner has submitted an undertaking and in view of Master Plan of Delhi 2010, the petitioner can use the third floor as a dwelling unit, subject to further orders of the Supreme Court. The petition to this extent is rendered infructuous as the petitioner has furnished the requisite undertaking and is permitted and allowed to use the third floor as a dwelling unit with kitchen, subject to further orders of the Supreme Court.
3. It will be open to the respondent-MCD to take action in respect of the spiral staircase but after giving intimation to other occupants. Learned counsel for the petitioner has stated that he is ready and willing to demolish the spiral staircase.
4. The only controversy which remains to be decided is with regard to the cellular tower. In this connection, my attention is drawn to the order dated 19th May, 2008, which also deals with the cellular antenna. Relevant portion of the order reads as under:-

“2.The notice of Idea Cellular Company as well as the owner of terrace of third floor of B-54 A GK-I, New Delhi be given either to remove the unauthorisedly erected Cellular Antenna at the terrace of third floor of the P.No. B-54/A, Greater Kailash-I, New Delhi or get necessary permission meting all the conditions in force at present from the competent authority, within 20 days form the date of receipt of order, failing which Cell Tower erected at terrace of third floor be sealed.”

5. The respondent-MCD is at liberty to issue show cause notice clearly pointing out the requirements or permissions, which the petitioner or the cellular operator is required to fulfill. After receiving the response, the respondent-MCD can take further action in accordance with law. In case the petitioner has any grievance, he will be at liberty to ventilate his grievance before appropriate forum/ authority in accordance with law.

The writ petition is disposed of.

DASTI.

SANJIV KHANNA, J.

FEBRUARY 04, 2010
VKR