

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

Date of decision: 8th July, 2010.

+ **W.P.(C) 4449/2010 & CM No.8843/2010 (u/S 151 CPC for interim relief)**

SMT. RITA SEHGAL

..... Petitioner

Through: Mr. Tarun Diwan & Mr. S.C. Gupta,
Advocates

Versus

MCD & ANR

..... Respondents

Through: Mr. Mukesh Gupta, Advocate with
Mr. Sanjeev Kumar, AE (Building).

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. Whether reporters of Local papers may be allowed to see the judgment? | NO |
| 2. To be referred to the reporter or not? | NO |
| 3. Whether the judgment should be reported in the Digest? | NO |

RAJIV SAHAI ENDLAW, J.

1. The petitioner has instituted this petition for quashing the order of the respondent no.2 being the Monitoring Committee constituted by the Supreme Court vide orders in *M.C. Mehta's* case as well as the notice dated 1st July, 2010 issued by the respondent no.1 MCD to the petitioner threatening sealing of the shop of the petitioner in property no.D-14/213, Section 8, Rohini, Delhi on the ground of misuse of running a Beauty Parlour therein. The respondent no.1 MCD in its notice dated 1st July, 2010 (supra) itself has stated that the same was being issued as per the directions

of the Monitoring Committee.

2. The counsel for the respondent no.1 MCD appearing on advance notice informs that in pursuance to the notice dated 1st July, 2010, the premises of the petitioner were sealed yesterday. The counsel for the petitioner also admits the said fact.

3. The counsel for the petitioner contends that the petitioner has not been given any opportunity of being heard before the action of sealing. It is contended that earlier also threats of sealing were meted out but the respondent no.1 MCD after being satisfied of the petitioner being entitled to use the property for a Beauty Parlour had not sealed the property. It is stated that the property, though situated in a residential area, the use as a Beauty Parlour is permitted under Clause 15.6.3 of the Master Plan Delhi – 2021. It is contended that in any case, sealing could not have been effected without hearing.

4. The counsel for the respondent MCD explains that the property though residential has shops on the ground floor and the number of shops is more than the dwelling units in the property and thus the provision aforesaid of the Master Plan does not apply and for this reason only the Monitoring Committee has directed the MCD to seal the property. The counsel for the MCD further contends that action of the MCD being on the direction of the Monitoring Committee appointed by the Supreme Court cannot be challenged before this Court and the remedy of the petitioner lies either by

way of representation to the Monitoring Committee or before the Supreme Court. Reliance in this regard is placed on the order dated 11th October, 2007 of the Division Bench of this Court in WP(C) No.7109/2007 titled *TSI Displays P. LTD. Vs. MCD* as under:

“There is, in our opinion, considerable merit in the submission made by Mr. Paul. If the sealing of the premises has taken place on account of the direction issued by the Apex Court, any relief by way of de-sealing of the same can also be given by the said Court alone or by an agency nominated by the said Court, which in the instant case happens to be the Monitoring Committee appointed by their lordships. So also whether or not there is any misuse is a matter which the Monitoring Committee has to examine and in case it is found that there is none, it may be in a position to direct the de-sealing or make a report to that effect to the Supreme Court. In either eventuality, intervention by the High Court in the ongoing process of sealing and de-sealing which is being monitored by the Supreme Court is not, in our opinion, indicted. The petitioner has an effective remedy available to him before the Monitoring Committee and even if one were to say that the said remedy is not as efficacious as the writ petition before this Court, judicial discipline demands that we keep off the proceedings which are directly under the supervision of the Supreme Court.”

5. The counsel for the petitioner states that the petitioner has also made a representation to the Monitoring Committee but the same is not being heard / considered. It is contended that the petitioner is dependent for her livelihood on the Beauty Parlour and is suffering owing to the same having been sealed.

6. In view of the decision aforesaid of the Division Bench, the petition is not maintainable before this Court. It will however be open to the petitioner

to seek her remedies before the fora as aforesaid.

The petition is dismissed. No order as to costs.

Dasti.

**RAJIV SAHAI ENDLAW
(JUDGE)**

8th July, 2010

gSr..