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

Reserved on: 09.05.2013

Date of decision: 20.05.2013

+ **LPA 287/2013**

GENERAL RADIATOR WORKSHOP
(REGD) THROUGH ITS PARTNER
SR SATWANT SINGH

..... Appellant

Through Mr.Manjit Singh Ahluwalia, Advocate

versus

THE COMMISSIONER MCD & ORS.

..... Respondent

Through Ms.Mansi Gupta, Advocate for MCD
Mr.Manish Kumar Srivastava,
Advocate for NDPL
Ms.Anusuya Salwan and Mr.Vikas
Sood, Advocates for DSIDC

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

CM 7409/2013 (exemption)

Exemption allowed, subject to just exceptions.

Application stands disposed of.

LPA 287/2013 & CM 7408/2013 (stay)

1. By the present appeal the appellant seeks to impugn the interim order dated 23-04-2013 whereby the stay application moved by the appellant was dismissed.
2. The brief facts relating to the present Petition are that the appellant is carrying on business from his premises bearing No.B-1, G.T.Karnal Road, Industrial Area, Delhi. It is contended that an electricity distribution transformer of 990 KVA was installed in the premises of respondent No.4

since inception i.e. 1974. It is claimed that respondent No.4 has recently purchased the said property bearing No.B-2, G.T.Karnal Road, Industrial Area, Delhi and that he is a builder by profession and wants to construct a building. It is further stated that respondents No.1,2 and 3 have joined hands with respondent No.4 for shifting of the sub station transformer from the premises of respondent No.4. and plan to install it in front of the appellant's premises.

3. The appellant further claims that he had got knowledge of the shifting of the transformer in front of his premises on 22.10.2012. when he received a letter from respondent No.3/Distribution Company. The appellant protested against the acts of respondent No.3 by writing a communication dated 23.10.2012. It is contended by learned counsel for the appellant that there is no reason or grounds whatsoever by respondent No.3 to install the transformer in front of the factory premises of the appellant. It is further claimed that there is violation of the DMC Act as the approval granted is incorrect.

4. The appellant has hence filed the present Writ Petition seeking a direction cancelling the approval of MCD in respect of shifting of the distribution transformer and for restraining the respondents from shifting the transformer from the premises of respondent No.4.

5. A perusal of the photographs filed by the appellant would show that the proposed location of the transformer is not in front of the factory of the appellant. At page 46 of the paper-book, a photograph is attached which shows that the transformer is proposed to be located on the main road which is at the entrance of the industrial complex and not at the entrance of the factory premises of the appellant.

6. The impugned order records that the photographs show that the transformer is sought to be erected not in front of the premises of the appellant and that there will be no obstruction in the ingress and egress of the movement of goods of the appellant. It is on these grounds that the request of the appellant for interim stay was rejected.

7. On initial consideration of the matter, it is clear that the appellant has failed to urge any cogent grounds as to why the transformer cannot be fixed at the place it is proposed to be installed. The appellant has not been able to show violation of any statutory provisions or violation of any legal rights of the appellant. It further appears that the ingress or egress to the premises of the appellant is not obstructed. In view of the above, we are not inclined to interfere in the impugned Order. The present appeal is dismissed.

8. We, may, however, clarify that all observations made herein are only for the purposes of disposal of the present appeal. The parties are free to raise all their contentions as may be available to them in law before the learned Single Judge when Writ Petition is taken up for disposal.

9. Pending application also stands dismissed.

JAYANT NATH, J.

CHIEF JUSTICE

MAY 20, 2013

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