

2

\$~

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

+ W.P.(C) 354/2009

JAGRITI MAHILA SAMITI Petitioner
Through: Mr. Mohit Ramdeo, Advocate.

versus

DDA & ANR. Respondents
Through: Mr. Ajay Verma, Advocate.

% Date of Decision: 05th July, 2013

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed under Article 226 of the Constitution of India for quashing of Resolution/Notice dated 10th September, 2007 whereby construction of Community Hall has been approved on the land initially earmarked for Nursery School and Club in colony of 512 MIG Flats, Green Apartments, Rajouri Garden, New Delhi.
2. Petitioner claims to be a welfare organisation of the residents of 512 MIG Flats and states that a Community Hall is not the requirement of the residents.
3. Learned counsel for petitioner further states that no hearing was given to the residents of the colony before changing 'use of the land' in question. He also submits that the construction of the Community Hall would infringe the right of privacy of the residents.

4. The Delhi Development Authority in its counter affidavit has stated that in the meeting held in the chamber of Minister of State, Urban Development, it was decided on 05th September, 2007 that a Community Hall be constructed by the DDA on the land initially earmarked for Nursery School-cum-Club.
5. Mr. Ajay Verma, learned counsel for DDA submits that as per law the revision in the layout plan for change of use premises earmarked for Nursery-cum-Club to Community Hall was approved by 261st Screening Committee vide Item No.177:2007 dated 29th November, 2007. He reiterates that change was only in “use premises” and there was no change in “land use” inasmuch as Nursery School-cum-Club and Community Hall are facilities for residents/neighbourhood and as per Master Plan are permitted in Residential Group Housing Pocket.
6. In rejoinder, learned counsel for petitioner states that residents of the colony have never requested for change of ‘use premises’. He further states that the residents of 512 MIG Flats actually desperately need a water tank and a school.
7. Having heard the learned counsel for parties, this Court is of the view that in the present instance there is no change of land use inasmuch as Nursery School-cum-Club and Community Hall fall within the same land use. In fact, change from Nursery School-cum-Club to Community Hall only amounts to change of ‘use premises’—which is clearly permissible as per law. Admittedly, in the present instance, the procedure for change of ‘use premises’ has been followed by amending the layout plan.
8. It is pertinent to mention that DDA in its counter affidavit has stated that the alternative uses suggested by the petitioner are misconceived inasmuch as a water tank already exists and sufficient Nursery Schools are available in the vicinity.
9. In the opinion of this Court, construction of a Community Hall also serves the public inasmuch as a Nursery School or a Club.

10. Keeping in view the aforesaid, this Court is of the view that it is not open for it to sit in judgment over the view of the statutory authority which is competent in law to decide the 'use premises' after following the procedure thereof. Consequently, present petition is dismissed and the interim order is vacated.

MANMOHAN, J

JULY 05, 2013
js