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

% *Date of decision: February 12, 2024*

+ **W.P.(C) 5471/2018**

SH. GIRDHARI LAL TIWARI **Petitioner**

**Through: Mr. Vikram Nandrajog and
Mr. Sheetesh Khanna,
Advocates.**

versus

GOVT. OF NCT OF DELHI **Respondent**

**Through: Mr. Karn Bhardwaj, ASC,
GNCTD with Mr. Rajat
Gaba and Mr. Shubham
Singh, Advocates.**

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T (oral)

1. The present petition is filed under Article 226 of the Constitution for issuance of directions to the respondent for quashing of gazette notification dated 03.08.2016 bearing no. F.13(43)/MB/UD/2014/1602 dated 29.07.2016. The petitioner has made the following prayers:

a) issue writ or direction in the nature of certiorari quashing the impugned gazette notification dated 03.08.2016 No. F. 13(43)/MB/UD/2014/1602 dated 29.07.2016 qua petitioners' property reflecting at serial no. 147.

b) issue writ or direction in the nature of mandamus



directing the respondent to grant hearing to the petitioner and decide the case of petitioner on merits.

c) pass any other/ further order(s) as this Hon'ble Court may deem fit and proper as per facts and circumstances of the case.

2. The petitioner is claiming to be the owner of the property bearing no. 420 Haveli Haider Quli, Chandni Chowk, Delhi-110006 (hereinafter referred to as the “**property in question**”) having purchased it from its previous owner M/s Tara Trading Co. through its proprietor Sushil Kumar Goyal by way of registered sale deed dated 06.08.2014 registered on 07.08.2014. The petitioner along with other co-owners is claiming to be in the possession of the said property through different tenants.

3. The petitioner came to know in the month of April, 2018 that certain properties situated in the vicinity of the present property have been declared heritage by the respondent. Thereafter, the petitioner came to know that the respondent vide gazette notification dated 29.07.2016 which was published on 03.08.2016 had notified various properties as heritage property including the property in question as mentioned at serial no. 147 of the said notification. The petitioner claimed that the notification dated 03.08.2016 was issued in a



mechanical manner and without giving any opportunity of being heard and without following the principle of natural justice. Accordingly, being aggrieved, the petitioner filed the present petition.

4. The respondent filed a short affidavit in response to the present petition wherein it is stated that a supplementary list of 554 heritage sites including heritage buildings, heritage precincts and natural features was prepared by Indian National Trust for Cultural Heritage falling in the jurisdiction of North and South Delhi Municipal Corporations and the said list was placed on the website of Urban Development Department, GNCT of Delhi. It is also stated that three public notices were published in newspapers on 06.09.2014, 07.09.2014 and 11.09.2014 whereby the objections were invited from the affected persons. The relevant portion of the short affidavit reads as under:

5. That a supplementary list of 554 Heritage sites including Heritage Buildings, Heritage Precincts and Natural feature as prepared by Indian National Trust for Cultural Heritage ("INTACH") falling in the jurisdiction of North and South Delhi Municipal Corporations was placed on the website of the Urban Development Department, GNCT of Delhi, and published in three news papers on 06.09.2014, 07.09.2014 and 11.09.2014 as a public notice, inviting objections from all persons likely to be affected thereby within thirty days from the date of the publication of the notice.



6. That copies of the said notice were made available to the public, and no objections were received. However, suggestions received in respect (notice were duly considered. Since 3 heritage sites were found already notified, they were excluded from the list.

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11. That Clause 1.1.1 (a) defines a Heritage Building as follows-

5. *"(a) "Heritage building" means and includes any building of one or more premises or any part thereof and/or structure and/or artifact which requires conservation and/or preservation for historical and/or environmental and/or architectural and/or artisanary and/or aesthetic cultural and/or environmental and/or ecological purpose and includes such portion of land adjoining such building or part thereof as may be required for fencing or covering or in any manner preserving the historical and/or architectural and/or aesthetic and/or cultural value of such building."*

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22. That the specific entry pertaining to the subject building notes its significant features and characteristics, which contributed towards it being listed as a Heritage Building. The subject building has been as an abandoned and decrept haveli, accessed through a narrow pointed archway. The arch is flanked with tall plasters and the building has a moulded edge with a decorative voussoir at the apex. The spandrels have star shape medallions and the architrave band futures a delicate floral design. The cornice is surmounted by a small ala with enshrined figures of gods. To one side is a large ota with pointed arch doorways. The doorways have MS grill fanlights and timber panel shutters. The upper floor retains a decaying balcony supported on I-beams. It retains MS railings, timber posts and louvered eaves boards with shingles. There are also a number of semicircular arched doorways at this level, each with timber panel shutters and simple fanlights.

23. That the entry pertaining to the subject building also contains a detailed description of the plan, elevation, walls,



plinth decoration, doors, windows, columns, entablature, brackets, chajjas, balcony railings, eavesboard/Fascia and parapet of the subject building. It further includes photographs of some of its distinctive features.

24. That therefore it is evident that the authorities concerned proceeded on the basis of the general criteria for classifying a building/structure as a heritage/building structure, and the components of the definition of a heritage building/structure and the descriptions of the three Grades of classification, as prescribed by the UBBLD 2016. Furthermore, the subject building was analysed in detail, and the specific features, historical significance, and other characteristics were studied. This amply demonstrates that the classification of the subject building as a heritage building was based on the definitions laid down in the UBBLD 2016, sound criteria evolved through these Bye Laws, and an analysis of the specific characteristics and peculiarities of the subject building which satisfied the general criteria.

5. The counsel for the petitioner argued that the petitioner has purchased the property in question vide sale deed dated 06.08.2014 i.e. prior to the issuance of notification dated 03.08.2016 and the respondent at the time of preparing the supplementary list of heritage property, did not give any opportunity of being heard to the petitioner. The counsel for the petitioner as such, argued that the public notification dated 03.08.2016 qua the property in question is liable to be quashed.

6. The Additional Standing Counsel for the respondent after



referring the paragraphs of the short affidavit as noted hereinabove, stated that due procedure was followed by the respondent while preparing the supplementary list of 554 heritage properties including the property in question. He further stated that the petitioner has not preferred any objection in pursuance of the public notices as such, the present petition is liable to be dismissed.

7. It is reflecting that the petitioner has purchased the property in question vide sale deed dated 06.08.2014 i.e. before the issuance of the gazette notification dated 03.08.2016. The petitioner has not preferred any objection despite the publication of three public notices as detailed hereinabove. However, the petitioner is entitled for personal hearing in respect of the property in question before the concerned authority of the respondent.

8. After considering all facts, the petitioner is directed to file a representation for delisting of the property in question from the scope of gazette notification dated 03.08.2016 within 15 days from today along with necessary documents. Thereafter, the respondent is directed to dispose of the representation, if any, filed by the petitioner as early as possible, preferably, within a period of 02 months after



considering the objections and the documents to be filed on behalf of the petitioner. The concerned authority of the respondent, if deems fit, may give a personal hearing to the petitioner for taking a final decision. However, it is made clear that till the disposal of the representation, if any, filed by the petitioner, the gazette notification dated 03.08.2016 shall remain in force qua the property in question.

9. The present petition along with pending applications, if any, stands disposed of with liberty to the petitioner to initiate appropriate legal proceedings in case of altered circumstances.

10. Copy of this order be given *dasti* to the petitioner and the respondent for doing the needful.

11. It is made clear that no opinion is expressed on the rights and contentions of the parties in the present petition.

DR. SUDHIR KUMAR JAIN
(JUDGE)

FEBRUARY 12, 2024

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