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

+ LPA 33/2016 and CAV No. 37/2016 and CM No. 1475-1476/2016

VAKIL AHMED & ANR

..... Appellants

Through: Mr M.A. Niyazi and Ms Anamika Ghai
Niyazi, Advs.

versus

EAST DELHI MUNICIPAL CORPORATION & ORS.. Respondents

Through: Ms Biji Rajesh for Mr Gaurang Kanth,
Adv. for R-1 (EDMC)

Mr Satyakam, ASC, Govt of NCT of Delhi for R-2
Inspector Kamal Kishor, SHO, Vivek Vihar

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **18.01.2016**

The present appeal is directed against the order of the learned Single Judge dated 22.12.2015 dismissing the writ petition. The appellant had claimed direction on the basis of the MoU/Settlement Deed by which a compromise was entered into by him with respondent Nos. 3 to 5 in *CS(OS) No.3950/2014* titled as ***Shri Vakil Ahmed vs. Shri Swarup Narayan Bhatnagar*** in respect of property No.80A (New No.504/18) forming part of Khasra No.1016/647, 645 and 1015/647 situated in the area of Chandrawali alias Shahdara, now in the Abadi at Circular Road Shahdara, Delhi. He claimed that after division—by metes and bounds—the said respondents were

sub-dividing the plots and constructing on it. The appellant's grievance was that this unauthorized construction had tended to prejudice his rights as firstly it was without sanction and secondly that it infringed on his rights to carry out the construction on his sub-divided portion of the plot. The appellant reiterates his submission and contends that the MCD was duty bound to take notice of such unauthorized construction. He also relies upon the bye-laws to say that sanction is required before construction and even sub-division is required to be duly noted and mutated by the municipal authorities. During the course of hearing, learned counsel submitted that till date, the appellant has not applied to the Municipal Corporation to register the sub-division, pursuant to the compromise decree. The learned Single Judge dismissed the petition on the premise that essentially it was a civil dispute not involving any public law element and could not be gone into by the Court under Article 226. At the same time, the Single Judge clarified that dismissal of the petition would not be construed as a licence to the contesting respondents to indulge in any illegal activity and that the first two respondents, i.e., East Delhi Municipal Corporation and the Police, if need be could take action in regard to unauthorized construction.

This Court is of the opinion that the impugned order does not call for interference. However, the only clarification is that it is open to the appellant to seek registration/recording of the sub-division and also claim any further rights which may arise therefrom, if it is not already done. In such case, East Delhi Municipal Corporation shall decide the issue and take necessary action in accordance with law,

keeping in mind *inter se* rights of both the parties, i.e., the appellant and the contesting respondent Nos. 3 to 5.

The appeal is disposed off in the above terms.

S. RAVINDRA BHAT, J

INDERMEET KAUR, J

JANUARY 18, 2016

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