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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2633/2013**
VEENA GUPTA AND ANR

..... Petitioners

Through Mr.Harish Malhotra, Sr. Adv. with
Mr.R.K.Modi, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS

..... Respondents

Through Ms.Mini Pushkarana, Standing
Counsel for the SDMC along with
Ms.Namrata Mukim, Ms.Yoothica
Pallavi and Ms.Anushruti, Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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14.07.2016

There are two petitioners before this Court. They are stated to be 2/3rd owners of plot No.D-1, Rajouri Garden, New Delhi which is stated to be measuring 2000 sq. yards. Respondent nos.2 and 3 are stated to be 1/3rd owners of this plot whereas petitioner nos.1 and 2 have 1/3rd share each. This is in terms of a joint application which had been filed before the concerned Court pursuant to which a decree has been passed. This decree is dated 30.7.2010. The decree sheet prepared on 06.11.2011 evidencing the fact that the decree is dated 30.7.2010 is a part of the record. A local commissioner had been directed to furnish a report which is a report dated 18.5.2010. This report dated 18.5.2010 had delineated the shares of the parties. The

final decree dated 30.7.2010 makes a reference to the fact that the report of the local commissioner shall form a part of the decree.

The contention of the learned counsel for the petitioners in this petition is that the plot which is measuring 2000 sq. yards having been apportioned as 1/3rd share falling to the share of petitioner no.1 and 1/3rd share to petitioner no.2 and jointly 1/3rd share to respondent nos.2 and 3 and the plot should accordingly be sub-divided. This proposition has been disputed by learned counsel appearing for respondent no.1.

Learned counsel for respondent no.1 points out on this count that in terms of Clause 4.4.3 sub-clause (iv) of the MPD 2021 sub-division of plots is not permitted and as such this prayer made by learned counsel for the petitioner cannot be acceded.

In this context learned senior counsel for the petitioners has placed reliance upon the Clause 15.4 sub-clause (ii) of the Mixed Use Regulations of MPD, 2021. It is pointed out that the development control norms which are applicable to a residential use will continue to be applicable even if the plot/dwelling unit is put to mix use. Submission being that even pressing that this plot is a mixed dwelling unit, the same norms which are applicable to a residential unit will be applicable to a mixed use land as well.

This is an statutory document.

In view of the submissions and counter submissions, the prayer made by learned senior counsel for the petitioners that the plot should be sub-divided cannot be acceded to. This prayer is rejected.

However, to resolve the controversy and to allow the petitioner

to enjoy his property in the manner in which he wishes to and the submission of the learned counsel for the petitioner on this count is that in spite of this decree having enured in his favour he is not able to utilize this plot and the plans filed by them before the Department are not being accepted by the Department.

Learned counsel for the respondent submits that they have no objection if the petitioner submits his plans for sanction of his building either individually or jointly (with any other co-owner,) and the same shall accordingly be processed by respondent no.1 in accordance with law. The additional submission of the learned counsel for the respondent on this count is that the FAR available to a plot of 2000 sq. yards will be kept in mind and the individual FAR will accordingly be sub-divided in terms of the decree into 1/3rd share each to petitioner no. 1; petitioner no. 2 and jointly to respondent no. 2 and respondent no. 3 and the proposed sanction plan will be considered accordingly.

No further orders are called for in this petition. This Writ Petition is disposed off accordingly.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

JULY 14, 2016
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