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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ LPA No. 177/2016, CM No. 9629/2016, CM No. 9630/2016 & CM No. 9631/2016

GODAWARI

..... Appellants

Through: Mr. S. Santanam Swaminandhan,  
Advocate alongwith Ms. Nishtha  
Khurana and mr. Harshal Tholia,  
Advocates.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through: Ms. Puja Kalra, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MS. JUSTICE DEEPA SHARMA**

**ORDER**

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**15.03.2016**

The appellant is aggrieved by an order dismissing her writ petition. The grievance is that while disposing of W.P.(C) No. 11295/2015, the learned Single Judge, after considering the report of the North Delhi Municipal Corporation (NDMC) was of the opinion that the entire unauthorised construction-the property no. 692, Gali Tehsildar, Chandni Mahal, Delhi -110002 requires to be demolished.

It is contended that the petitioner has not been afforded an opportunity to represent against the proposed demolition and that it was only after becoming aware of the adverse orders she was able to apply for *post facto* regularisation which she did. The Municipal

Corporation contends on the other hand that on 11.03.2016, request for regularisation was rejected given that the unauthorised structure was constructed beyond the compoundable permissible limits inasmuch as it had five floors. It is also pointed out that learned Single Judge had directed the demolition of the entire property in view of the tardy implementation of the previous directions to remove the non-compoundable portions of the unauthorised construction.

It is lastly urged that the petitioner can avail of the remedy of appeal under Section 347 B of the Delhi Municipal Corporation Act, 1957.

This Court has considered the submissions. The order of 11.03.2016 indicates that the petitioner's request for regularisation was rejected on the ground that it had fourth and fifth floor which were beyond the compoundable limit as per BBI, MPD 2021. The MCD also sought to urge that the show cause notice was sought to be served which is required for the demolition order but that service of notice was refused.

The Court is of the opinion that since partial demolition of the property had already been undertaken-in the sense that the roof of second, fourth and fifth floors have been punctured, the feasibility, if any, of the construction, to the extent it can be compounded, or to the extent of the permissible limit may be considered in the appellate proceedings. The appellant is permitted to prefer an appeal in this regard within the next one week. In the meanwhile, *status quo* shall be maintained with respect to the ground and the first floor. The *status quo* shall be maintained for the next three weeks. In the

meanwhile, it is open to the Presiding Officer of the Appellate Tribunal to consider whether to extend, modify, or vacate the stay having regard to the entirety of the circumstances.

It is clarified that the appellate authority shall consider the question of feasibility of regularisation of the structure to the extent it can be brought within compoundable limits, without being influenced by the order of rejection of 11.03.2016 and also the orders of this Court in W.P.(C) No. 11295/2015.

The appeal is disposed of in the above terms.

*Dasti* under the signatures of Court Master.

**S. RAVINDRA BHAT, J**

**DEEPA SHARMA, J**

**MARCH 15, 2016**

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