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

+ W.P.(C) No. 2882/2015 & CM No.5160/2015 (for direction).

PREM LATA BHATIA & ORS. Petitioners

Through: Mr. Manik Dogra, Mr. Sidhartha Das
and Mr. Amit Mahajan, Advs.

Versus

NEW DELHI MUNICIPAL COUNCIL & ANR. Respondents

Through: Ms. Sakshi Popli, ASC and Mr.
Jitendra Kr. Tripathi, Adv. for NDMC
along with Mr. Anand Prakash Tigga,
Asstt. Architect and Mr. Sushil
Kumar, Dy. Architect of NDMC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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28.01.2016

1. This order is in continuation of the earlier order dated 21st January, 2016.

2. The counsel for the respondent New Delhi Municipal Council (NDMC) has in Court read the order dated 28th March, 2013 of the Monitoring Committee then appointed by the Supreme Court and on the basis thereof states that the respondent NDMC is required to compute the misuse charges to be recovered from the property. It is stated that for the said purpose the property will be temporarily de-sealed to carry out the measurements and thereafter the misuse charges due would be computed. Vis-a-vis the unauthorised construction it is stated that since the original sanctioned plans are not available (it is informed that attempt was made to obtain the sanctioned plans from the records seized by the Central Bureau of

Investigation (CBI) but the photocopies are not legible) the only way forward now is submission by the petitioners of fresh plans of regularisation/construction and which will be scrutinised and decision thereon would be taken and the petitioners can then either modify the construction or reconstruct the property in accordance with the plans so sanctioned.

3. On enquiry whether the subject property is situated in the Lutyens Bungalow Zone (LBZ) wherein there is a freeze on fresh construction, the counsel for the respondent NDMC on instructions from Mr. Anand Prakash Tigga, Asstt. Architect present in Court states that the subject property is not situated in the LBZ.

4. Still, it is deemed expedient that the Chairperson, NDMC takes a call whether the subject property is in LBZ or not and whether new construction or additions / alterations are permissible therein. It is so directed.

5. Accordingly, the petition is disposed of with the following directions:-

- A. The respondent NDMC to, on 1st February, 2016 at 1100 hours de-seal the aforesaid property, only for the purposes of carrying out measurements for computing misuse charges and if need be to prepare a plan of the property as exists and to complete the said process by 1700 hours on 5th February, 2016.
- B. Thereafter the said property shall be de-sealed and the petitioners shall have access thereto.
- C. However the petitioners shall not be entitled to make any additions, alterations, renovations, constructions or work of any

nature whatsoever therein without the express permission in writing of the respondent NDMC.

- D. The petitioners shall on or before 26th February, 2016 submit to the respondent NDMC fresh plans, either for regularisation of the existing construction with suitable additions, alterations, modifications or for demolition of the existing construction and re-construction and the said plans shall be considered by the respondent NDMC in accordance with law.
 - E. The petitioners, upon de-sealing of the property shall not use the subject property for any purposes other than as is permissible in law.
 - F. The respondent NDMC shall be entitled to raise a demand in accordance with law on the petitioners for misuse charges and the petitioners if impugn the same would have their remedies in accordance with law.
 - G. The petitioners shall not alienate or part with possession of or create any encumbrance in the subject property without giving advance notice of at least two months to the respondent NDMC as well as L&DO (which is stated to have re-entered the property).
5. The counsel for the petitioners states that permission be given for painting and polishing of the premises, to make it habitable.
6. The respondent NDMC between 1st and 5th February, 2016 as aforesaid will have the property photographed to be able to decipher the

exact status thereof and the petitioners shall notify the respondent NDMC of the date from which they want to commence the work of painting, polishing etc. of the property and the date till which the said work will go on. The respondent NDMC if so desires may depute a person to oversee the work of painting / polishing or regularly visit the property to ensure that in the garb of the said works no other works are carried out.

No costs.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J.

JANUARY 28, 2016

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