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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3005/2015 & CM No.5387/2015 (for stay)
M/S. AFFINITY BEAUTY SALON (P) LTD. & ANR..... Petitioners
Through: Mr. Ramesh Singh & Mr. Amit Sethi,
Advs.

Versus
NEW DELHI MUNICIPAL COUNCIL Respondent
Through: Ms. Sakshi Popli, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.03.2016

1. The petition impugns the order dated 26th February, 2015 of the respondent New Delhi Municipal Council (NDMC) directing the owner / occupier of Shops No.10-11, Plot No.4, Bengali Market, New Delhi to stop all construction activity inside the said premises. The petition also impugns the notice dated 27th February, 2015 of the respondent NDMC under Section 250 of the New Delhi Municipal Council Act, 1994 asking the owner / occupier of the said premises to show cause why the said premises should not be sealed.
2. Notice of the petition was issued and in the light of pendency of appeal No.145/AT MCD/2015, the operation of the impugned order / notice stayed on the terms mentioned therein.
3. The respondent has since then filed the counter affidavit and to which a response has been filed by the petitioners.
4. Upon being informed that the appeal relating to the alleged unauthorized construction is pending before the Appellate Tribunal, Municipal Council of Delhi (ATMCD), I have enquired from the counsels as

to what purpose adjudication of this petition would serve inasmuch as the appropriate statutory body to determine the said question is the Appellate Tribunal.

5. Both counsels agree that i) the notice dated 26th February, 2015 to stop work has become intractuous and the sealing pursuant to notice dated 27th February, 2015 would depend on the outcome of the appeal; and ii) that this petition be disposed of in the view of the pendency of the appeal and with a direction that the outcome of the notice of sealing would be determined by the outcome of the appeal, subject of course to the rights of the aggrieved party to remedies thereagainst.

6. At this stage, the counsel for the petitioners states that certain issues have been raised in this petition which may not be within the domain of the Tribunal.

7. However the counsel for the respondent controverts and states that that is the subject matter of another writ petition.

8. This petition is disposed of directing that the sealing proposed by the respondent NDMC would depend upon the outcome of the appeal and subject to rights of the aggrieved party to remedies thereagainst and by further direction that the premises be not sealed till the decision of the application and in the event of same being against the petitioners, for a further period of 15 days therefrom to enable the petitioners to take their remedies.

No costs.

RAJIV SAHAI ENDLAW, J.

MARCH 08, 2016/‘gsr’..

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