

\$~9

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ LPA 304/2016
GOVT OF NCT OF DELHI ANIMAL HUSBANDRY
DEPARTMENT

..... Appellant

Through Mr Sanjay Dewan, Adv.
versus

BHAI BUILD COM PVT LTD & ANR

..... Respondent

Through Mr Ashok Chhabara, Adv. for R1
Mr Ajjay Aroraa with Mr Kapil
Dutta, Advocates for SDMC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

%

18.07.2016

CM No. 18373 – 18374/2016 (Exemption)

Exemption allowed subject to all just exceptions.

The applications stand disposed of.

CM No. 13875/2016 (condonation of delay of 10 days)

No reply has been filed to this application seeking condonation of delay of ten days in filing this Letters Patent Appeal. As there is no opposition to this application for condonation of delay, the delay in filing the present appeal is condoned.

The application is allowed.

LPA 304/2016

The impugned order dated 01.04.2016 passed in W.P.(C) No. 2184/2016 titled 'Bhai Buildcom Private Limited v. Municipal Corporation of Delhi and Anr.' reads as under:

“Learned counsel for the respondents has appeared on advance notice. Mr. S. C. Yadav, Executive Engineer (Maintenance), Central Zone of the respondents is present in Court. It is submitted by him that subject property is a private property of petitioner, which was declared dangerous. The respondents have demolished the property partially on deposit of demolition charges by the petitioner. Remaining part portion of the property can be demolished by petitioner himself or through respondents subject to deposit of demolition charges. Learned counsel for petitioner submits that petitioner will deposit the demolition charges with the respondents within one week after the quantum is notified to petitioner. Let the respondent inform petitioner the demolition charges within one week. Upon depositing the demolition charges, the respondents shall take demolition action within one week thereafter, in accordance with law. Writ petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous. Dasti.”

The aforesaid order was passed without notice to the appellant i.e. Govt of NCT Of Delhi, Animal Husbandry Department, who was admittedly in use and occupation of the property in question located at 13, Bazar Lane, Bhogal, New Delhi.

The impugned order which is adverse and causes prejudice to the appellant should not have been passed without hearing the appellant and examining their versions and views.

It is admitted and accepted that the appellant was not made a party in the aforesaid writ petition, though they were in use and occupation of the aforesaid property before the sealing exercise was undertaken.

It is accordingly directed that the appellant herein be impleaded as the

respondent no.3 in the aforesaid writ petition and the matter will be heard and decided in accordance with law.

Accordingly, we set aside the impugned order dated 01.04.2016, with an order of remand for fresh decision.

To cut short delay, the parties are directed to appear before learned Single Judge on 08.08.2016, when a date of hearing will be fixed. Nothing stated in this order, would be construed as an expression of opinion on merits, which will be binding on the learned Single Judge while deciding and adjudicating the writ petition on merits.

SANJIV KHANNA, J

SUNITA GUPTA, J

JULY 18, 2016/*rd*