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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5748/2016 & C.M. No.34771/2016

SARVESH BHARDWAJ

..... Petitioner

Through Petitioner in person.

versus

SOUTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through Ms. Madhuri Dhingra for Ms. Arti
Bansal, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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14.12.2016

Cost has since been paid. A status report of the respondent Corporation is on record. It is stated that this property was inspected and since illegal and unauthorized construction was noted in the shape of ground floor and first floor (old and residentially occupied) by raising walls of the second floor, demolition orders were passed after the booking of the property. The owner-occupier again started raising unauthorized construction in the shape of second floor. This was without any prevision sanction or permission for which again action was initiated against the owner-occupier/petitioner and the property has been booked on 02.05.2016. Prosecution had also been launched under Sections 332/461/466-A of the DMC Act. After complying with the other relevant provisions of law, a demolition order was passed on 24.05.2016. It is further pointed out that the present petitioner seeking permission of this Court to carry out repair and

renovation work in the said property may not be correct for the reason that he has commenced raising unauthorized construction in the shape of second floor and the third floor under the garb of clause 6.4.1 of the Delhi Building Byelaws. It is reiterated that the property already stands booked.

A rejoinder has been filed by the petitioner. Submission is that this property is a laldora property and no action can be taken against this property; a demolition order could not have been passed. He has relied upon a Full Bench judgment of the Court reported in Municipal Corporation of Delhi Vs. Dalmia Dairy Industries Ltd and Others decided on 27.07.1987. This also finds mention in the rejoinder.

This Court is of the view that the disputed questions of fact have arisen and this Court would not be in a position to decide whether it is laldora property or otherwise.

Be that as it may, noting that the Competent Authority has already passed a demolition order on 24.05.2016, it is advisable and appropriate for the petitioner to approach the ATMCD who alone would have the jurisdiction to deal with such an order.

No further orders are called for on this petition. It is disposed of.

INDERMEET KAUR, J

DECEMBER 14, 2016

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