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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6845/2014 & C.M. No.16164/2014

SITAC ESTATES PVT. LTD. & ORS.

..... Petitioners

Through Mr. Raman Duggal, Mr. S.K. Gandhi,
Mr. Shivanshu Kumar, Ms. Nishtha
Gupta, Mr. Aditya Kapoor and Ms.
Aayushi Gupta, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through Mr. Santosh Kumar, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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12.08.2016

The prayer made in the present petition is that the order passed by the Chief Town Planner of South Delhi Municipal Corporation dated 17.09.2014 be set aside. By this order the Chief Town Planner was of the view that the land in dispute is a thoroughfare and public; this order was passed by the Chief Town Planner after hearing both the parties i.e. petitioner as also the private respondent (respondent No.2). The Chief Town Planner was of the view that documents and facts which evidenced that the approved layout plan of Hauz Khas Enclave, the roads and park (open area as shown in the approved layout of Padmini Enclave) were thoroughfare and public.

Vide order dated 01.10.2014, the predecessor Bench of this Court had noted that a suit CS (OS) No.41/2011 is pending inter-se

the petitioner and respondent No.1/Corporation. This is an admitted fact. This is a suit for injunction and declaration. Respondent No.2 had sought impleadment in that suit by moving an application under Order 1 Rule 10 of the CPC. This application was dismissed. He has filed an appeal against that order. That appeal is yet to be decided. On 01.10.2014, the Bench was of the prima-facie view that this petition can be disposed of by directing that the impugned order passed by the Chief Town Planner shall be subject to the judgment in CS (OS) No.41/2011. Learned counsel for the petitioner submits that he would abide by this direction and he is not pressing the writ petition any further. Learned counsel for the respondent/MCD has no objection to this stand of the petitioner as admittedly the MCD is a party in the suit which deals with the same issue. Respondent No.2 has an objection to this. His submission is that he also be heard in this matter. Additional submission being that he be impleaded as party in the suit. This Court notes the earlier submission which was to the effect that an unsuccessful attempt had been made by respondent No.2 to get himself impleaded before the original Court; the same was declined; he has filed an appeal against that order. This appeal of respondent No.2 is pending. That apart, the Chief Town Planner had heard all the parties and then arrived at the findings as aforementioned in his order. Respondent No.2 was given a fair hearing.

This Court is of the view that no further orders are called for on this petition and it is disposed of in terms of the prima-facie observations made by this Court in the order dated 01.10.2014 that the order of the Chief Town Planner will be subject to the judgment in

CS (OS) No.41/2011. If respondent No.2 is still unable to get himself impleaded in the aforementioned proceedings, he is at liberty to take an independent course of action as permitted under law.

Petition disposed of.

INDERMEET KAUR, J

AUGUST 12, 2016

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