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

+ **W.P.(C) 7070/2016**

GAGAN MALIK

..... Petitioner

Through Mr. Rakesh Tiku, Sr. Adv. with Mr.
Arun Batta, Ms. Aarushi Tiku and
Mr. Sandeep Kumar, Advs

versus

SOUTH DELHI MUNICIPAL CORPORATION

THROUGH ITS COMMISSIONER

..... Respondent

Through Mr. Mukesh Gupta, Standing Counsel

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **10.08.2016**

C.M.No.29161/2016 (Exemption)

Exemption allowed subject to all just exceptions.

Application disposed of.

W.P.(C) 7070/2016 and CM No.29160/2016

Petitioner is aggrieved by the notice dated 29.07.2016 issued by the respondent / SDMC wherein it was stated that the Ground Floor to Second Floor property bearing no. J-24, situated at NDSE, Part-I, New Delhi is being misused and the petitioner had been restrained from continuing with the misuse and bring the premises within the permitted use as per Master Plan-2021 otherwise the premises would be sealed.

Petitioner is aggrieved by this notice. His submission is that he is not being heard and this notice has been issued unilaterally. Contention being that had a hearing been afforded to the petitioner he

would have explained and satisfy the Department that there is infact no misuse carried out in the aforementioned property.

On advance notice counsel for the respondent has put in appearance. He disputed this fact.

At this stage, counsel for the petitioner has placed reliance upon a judgement of Co-ordinate Bench of this Court in **WP (C) 5786/2016 titled M/s. Computer Kids Pvt. Ltd. Vs. South Delhi Municipal Corporation** wherein in similar facts a similar notice issued under section 345-A of the Delhi Municipal Corporation Act, 1957 has been challenged, it has been disposed of treating this petition as a representation.

Counsel for the petitioner submits that this petition be also treated as representation and he should be allowed to represent his case before the department.

The ratio of the judgment has been perused. This Court is of the view that a similar order can be passed in this case as well. Accordingly, the petition is disposed of with the following directions:

- (1) This writ petition be treated as representation of the petitioner.
- (2) The petitioner will appear before the Deputy Commissioner, Central Zone, SDMC for a personal hearing on 22.08.2016 at 3.00 pm.
- (3) The respondent will pass a speaking order within a period of three weeks from the date of receipt of this order.
- (4) If the order proposed to be passed by the SDMC is of sealing, the same be not given effect to till the next one week from the date of pronouncement of the order to enable the petitioner to

take recourse to such legal remedies which may be available to him.

- (5) Petition disposed of in the above terms.

INDERMEET KAUR, J

AUGUST 10, 2016

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