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

+ **W.P.(C) 7929/2016**

HONSHU BUILCON PRIVATE LIMITED Petitioner
Through : Mr B. L. Wali along with Mr A. P.
Kaushik, AR for the Petitioner.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through : Mr Gaurang Kanth with Mrs Biji Rajesh

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER
% **07.09.2016**
CM 32916/2016

Allowed subject to all just exceptions.

W.P.(C) 7929/2016 & CM 32915/2016

Issue notice. Notice is accepted by the learned counsel for the respondent.

Mr Wali, the learned counsel appearing for the petitioner, states, on instructions, that security deposit has been made in respect of the parking site at Tilak Nagar Under Flyover and the total amount of the same is Rs 15,94,500/- (Rs 11,14,500/- by way of a bank guarantee and Rs 4,80,000/- by way of a cash deposit). He submits that the said parking site at Tilak Nagar Under Flyover was surrendered in May, 2016. Therefore, according to Mr Wali, the said amount and the bank guarantee are liable to be returned to the petitioner. He has requested that the same, instead of being returned, be adjusted towards the security deposit for the current parking site at CC Vasant Vihar Priya. Accordingly, he states that the respondent may encash the bank guarantee amount of Rs 11,14,500/- and on such

encashment, no objection whatsoever, would be raised by the petitioner, provided it is adjusted towards the security deposit amount for the current parking site. The other amount of Rs 4,80,000/- is already available by way of a cash deposit with the respondent, which may also be adjusted towards the security deposit for the current parking site.

In addition, a security deposit had been made by the petitioner for the parking site at Yusuf Sarai Market, which was also surrendered on 10.05.2016. The entire amount of the security deposit was Rs 11,28,000/- (Rs 8,28,000/- by way of a bank guarantee and Rs 3,00,000/- by way of a cash deposit). The said amount is also liable to be returned to the petitioner. However, according to Mr Wali, the entire amount be adjusted towards the security deposit for the current parking site at CC Vasant Vihar Priya in the same manner, as indicated above, for adjustment of the security deposit for Tilak Nagar Under Flyover. The encashment of the bank guarantees by the respondent towards adjustment against the security deposit for the current parking site at CC Vasant Vihar Priya will not be objected to by the petitioner. The above adjustments of Rs 15,94,500/- and Rs 11,28,000/- would amount to Rs 27,22,500/-, which would fall short by Rs 19,52,166/- of the security deposit amount of Rs 46,74,666/- required for the current parking site at CC Vasant Vihar Priya. Mr Wali submits that without prejudice to the rights of the petitioner to seek adjustment of the security deposit for the parking site at District Centre, Saket which, according to Mr Wali, was surrendered, but

according to Mr Kanth, was cancelled, the petitioner would, in two days, be depositing a sum of Rs 19,52,166/- with the respondent.

On such deposit being made, the condition with regard to the security deposit for the current site at CC Vasant Vihar Priya for the amount of Rs 46,74,666/- would be satisfied. Consequently, we direct that immediately thereupon, possession be handed over to the petitioner in respect of the parking site at CC Vasant Vihar Priya, subject to the petitioner complying with other conditions. Of course, the petitioner would make regular payment of monthly fee each month in advance.

In view of the foregoing, the impugned corrigendum, only to the extent it relates to serial No. 32, is set aside. The cancellation of the current parking site, which was supposedly communicated to the petitioner by letter dated 06.09.2016 (but not yet received by the petitioner as alleged by Mr Wali), would stand withdrawn. The writ petition stands disposed of.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

SEPTEMBER 07, 2016
SR