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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8226/2016**
ASHOK JAIN

..... Petitioner
Through Mr.Vikram Nandrajog and Mr.
Shetesh Khanna, Advocates

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS
..... Respondents
Through Mr.Mukesh Gupta, Standing Counsel
for the North DMC.
Mr.Deeptakirti Verma, Advocate with
Mr. Vipin SI for R-2 and R-3.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **19.09.2016**

C.M. No.34097/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 8226/2016

Petitioner before this Court is aggrieved by the act of the respondents (North Delhi Municipal Corporation and the Station House Officer). Submission is that the petitioner was carrying out repairs of his building in Municipal No.1475, 1475/1, 1476 to 1479 Dewan Hall Road, Neart Moti Cinema, Chandani Chwok, Delhi as is permitted to him under 2.14 of the Unified Building Bye-Laws for Delhi, 2016 (paramateria to 6.4.1 of the Building Bye Laws, 1983);

submission being that in spite of this the respondents are interfering in the rights of the petitioner and calling upon him to stop the repairs in the building. Learned counsel for petitioner submits that on earlier occasions also i.e. in the year 2010 and again in the year 2012 he had been granted permission under the Building Bye Laws (earlier 6.4.1. of Building Bye-Laws, 1984). This is evident from the communication (pages 21 and 25 of the paper book) which had been addressed to the petitioner upon which reliance has been placed upon by the petitioner.

Learned counsel for respondent no.1 at the outset submits that this writ petition is not maintainable. His submission is that a blanket order cannot be passed in favour of the petitioner and in the absence of any specifics having been given by the petitioner about the officer who had visited the site no order can be passed. He has placed reliance upon a judgment of a Coordinate Bench of this Court in WP(C) 5833/2010 Ashok Kumar Vs.MCD and Anr. wherein the same petitioner has been declined this permission on 30.8.2010. Additional submission of the learned counsel for the respondent no.1 is that the Bye Law 2.14 is codified and the petitioner does not have to approach the Court for getting any permission; what is permitted under Bye Law 2.14 does not have to be re-endorsed by the Court.

Learned counsel for respondent no.2 has also made his submissions. His submission is that a beat constable of the area had visited the site and noted that there are certain tenants living in the property and since there were altercations in the premises this had necessitated respondent no.3 to visit the site.

Be that at it may, noting the submissions, counter submissions as also the oral submission made before this Court that the petitioner is going to confine his repairs/alteration only to the mezzanine floor and the first floor of the aforementioned property; his further submission that Mr. Kaushik from the Corporation had visited the site which is confirmed by the Corporation as Mr. Kaushik is Junior Engineer of the North DMC had probably gone on a routine visit to the site; this Court is of the view that as the petitioner is going to confine his repairs/alterations in terms of clause 2.14 of the Unified Building Bye-Laws for Delhi, 2016 as also the general conditions contained in the Building Bye-Laws and the MPD-2021 no such permission to carry out the aforementioned alterations/additions would be required.

The respondent, however, is at liberty to initiate any action if there is a violation of the Clause 2.14 of the Unified Building Bye-Laws for Delhi, 2016 and for the said purpose a show cause notice may be served upon the petitioner before taking any coercive steps.

Respondent no.3 is also at liberty to take action in accordance with law.

Petition disposed of in the above terms.

INDERMEET KAUR, J

SEPTEMBER 19, 2016

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