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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10843/2016**
SHRI RISHI SEHDEV

..... Petitioner

Through Ms.Neelam Rathore, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through Ms.Arati Bansal, Mr. Ajay Digpaal
and Ms. Nandita Mishra with Mr.
Naresh Bhardwaj, A.E. for R-1.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **16.11.2016**

C.M. No.42506/2016 (exemption)

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

W.P.(C) 10843/2016 & C.M.No.42505/2016

Petitioner is aggrieved by the action on the part of the respondent/SDMC. Submission is that the petitioner was carrying out alternations and repairs in her building i.e. property bearing No.D-70, Anand Niketan, New Delhi as per his permissible limits. This was on the first floor and second floor. On 19.7.2016, the petitioner received a notice from the Corporation under Section 431 of the DMC Act directing the petitioner not to proceed with any further construction. Submission is that this notice was issued at the

behest of the private respondent (respondent no.4). On 20.7.2016, petitioner being a law abiding citizen informed the respondent that no changes are being done externally nor the property is being extended and assured them full cooperation. On the same date itself, they issued a letter to the concerned SHO directing him to direct the petitioner to stop the construction; this was done without even inspection of the property as the property was inspected on a subsequent date i.e. on 21.7.2016. Submission is that the act of the respondent is wholly arbitrary and against every principle of natural justice.

On advance notice, learned counsel for respondent has put in appearance. Her submission is that an earlier show cause notice was also issued which was on 15.07.2016 and the illegalities being perpetrated by the petitioner has been informed to the petitioner. On this count, learned counsel for petitioner submits that this notice was not received by her. This was pasted at the site. The only notice which was received by the petitioner is the notice dated 19.7.2016 to which the petitioner had answered forthwith.

Be that as it may, noting the aforementioned contentions, this Court is of the view that the respondent without having inspected the property and having gone on to inform the concerned SHO to stop the construction at the site of the petitioner has prima facie acted illegally.

The letters of the petitioners dated 20.7.2016 and 21.7.2016 and 23.7.2016 as also the subsequent letter dated 07.11.2016 be treated as the representation which shall be considered and answered in accordance with law. The same shall be answered within two weeks

from today. The illegality purported to have been perpetrated by the petitioner shall be informed to him in writing and till then the petitioner will not carry out any construction activity. Thereafter, after his representation is answered, he may carry out the construction activity in accordance with the permissions granted by the respondent.

At this stage, learned counsel for petitioner submits that he has also filed an application seeking sanction of his third floor which is pending before the Department as also regularization of his property. The same shall also be decided by the respondent in accordance with law within an outer time frame of two months.

Meanwhile the construction material which has been seized by the police/respondent no.3 shall be returned back to the petitioner who undertakes to ensure that no untoward material will be stocked/kept on any extra portion of the site.

Petition disposed of in the above terms.

Order dasti.

INDERMEET KAUR, J

NOVEMBER 16, 2016

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