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

+ LPA 670/2016

RESIDENT WELFARE ASSOCIATION

LIG (REGD) & ANR

..... Appellants

Through: Mr. N.S. Dalal, Adv.

Versus

THE COMMISSIONER OF POLICE & ORS Respondents

Through: Mr. V.P.S. Charak and Ms. Shubhra
Parashar, Advs. for R-3/SDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

05.12.2016

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1. By the order under appeal, W.P.(C) No.11903/2015 filed by the appellants herein was disposed of by the learned Single Judge with directions as under:-

"The respondent no.3 authorities will treat this writ petition as a representation qua the petitioners. In view of the aforementioned factual matrix, respondent no.3 will pass a speaking order qua the iron boom barriers which prima facie appears to be against the Standing Order of respondent no.3. Before passing such an order the Corporation / respondent 3 will give a hearing to the petitioners. The stand of respondent no.1 and 2 that there are two registered RWAs of this Society will also be kept in mind. Accordingly, if need be a hearing shall be afforded to the other RWA before the order is passed. The order will be passed by the competent authority

within an outer limit of 3 months."

2. The said order is assailed in this appeal contending that having found that the iron boom barriers were not as per the guidelines of MCD, the learned Single Judge ought to have allowed the writ petition as prayed for and directed removal of the obstructions caused by the said iron boom barrier.

3. We have heard the learned counsel for both the parties and perused the material available on record.

4. The fact that there are two Resident Welfare Associations in respect of the commercial complex in question is not in dispute. It may be true that in the status report of the respondent No.3/South Delhi Municipal Corporation (SDMC) it was stated that no permission was granted for installation of any barriers at the site in question. However, having regard to the fact that there is another Resident Welfare Association and some of the individual members of the Association also wanted to come on record, the learned Single Judge thought it fit to direct SDMC to pass a speaking order after giving an opportunity of being heard to the petitioner Association and the other Association. The prima facie opinion recorded by the learned Single Judge that the iron boom barriers were not as per the guidelines of MCD and the person who had installed did not obtain the necessary permissions, in our considered opinion, causes no prejudice to either party. The learned Single Judge has also fixed the time limit for passing the said order by the Competent Authority. Hence, the impugned order cannot be held to have suffered from any legal infirmity warranting interference by us.

5. The appeal is, therefore, devoid of merit and is accordingly, dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

DECEMBER 05, 2016
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