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

+ CONT.CAS(C) 642/2015

SATYAVAN & ORS

..... Petitioners

Through: Mr. S.M. Hashmi, Adv.

versus

P K GUPTA COMMISSIONER MUNICIPAL CORPORATION OF
DELHI (NORTH) & ANR

..... Respondents

Through: Mr. Kapil Dutta and Ms. Diksha Lal

Adv. for Mr. Ajay Aroraa, Adv. for North MCD

Ms. Urvasi Singh, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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29.09.2016

CrI.M.A. 17161/2015

The present application has been filed under Section 195 read with Section 340 Cr.P.C. on the ground that one Mr. Maha Singh has played fraud upon the petitioners by obtaining their signatures by misrepresenting the facts.

The Constitution Bench of the Supreme Court in *Iqbal Singh Marwah Vs. Meenakshi Marwah*, (2005) 4 SCC 370 has held that prohibition contained in Section 195 of Cr. P.C. is attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any Court, i.e., during the time when the

document was “*custodia legis*”.

Since that is not the situation in the present case, the present application is disposed of with liberty to the applicant to file appropriate criminal proceedings before the concerned Court.

However, it is clarified that this Court has not expressed any opinion on merits of the present application. The rights and contentions of the parties are left open.

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Learned counsel for the North DMC states that the order in question has been complied with inasmuch as the process against unauthorized construction has been concluded.

However, learned counsel for the petitioners states that only partial demolition has been carried out.

In rejoinder, learned counsel for the North DMC reiterates that the entire unauthorized construction has been demolished.

Since there are disputed questions of fact, the present contempt petition is disposed of with liberty to the petitioners to file a civil suit in accordance with law. The rights and contentions of all parties are left open.

MANMOHAN, J

SEPTEMBER 29, 2016
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