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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9240/2015 & C.M. No.21162/2015**
M/S L.R. SHARMA AND CO

..... Petitioner

Through Mr.J.K.Mittal, Mr. Rajveer Singh and
Ms.Bhawna Pant, Advocates.

versus

**THE COMMISSIONER SOUTH DELHI MUNICIPAL
CORPORATION AND ANR**

..... Respondents

Through Mr.Jagdish Sagar, Advocate for
SDMC.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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19.08.2016

Petitioner is aggrieved by the fact that an order dated 17.7.2015 has been passed against him without considering the inspection reports dated 29.6.2015 which inspections have been carried out by the officers of the respondent/SDMC.

Record shows that two parking sites had been allotted to the petitioner; one at South Extension Part-II and the other at M-Block Market, Greater Kailash Part-I. These sites had been allotted to the petitioner pursuant to tenders having been invited by the respondent. Allotment and possession letter were issued to the petitioner on 31.5.2013.

The contention of the petitioner before this Court is that these parking sites have now been overtaken by illegal encroachments

which were not prevailing at the time when he had entered into the contract with the respondent. His submission is that inspection dated 29.6.2015 carried out by the officers of the respondent/Department would evidence his submission that these parking sites have been encroached. Submission is that inspection reports of the two sites (dated 29.6.2015) were not considered.

Learned counsel for the respondent/SDMC points out that the petitioner had entered into the contract with his eyes and year open. He was well aware of the fact that there were encroachments, stalls/dhabas at the site. This is clear from the written agreement entered into between the parties. Submission is that these reports were not considered for the reason that this inspection was carried out after the arguments have been heard on the grievance of the petitioner and the matter has been reserved.

It is however not in dispute that the order dated 17.7.2015 has been passed by the SDMC without considering the inspection reports dated 29.6.2016. These inspection reports dated 29.6.2015 form a part of the record of this Court (page 126 to 131 of the paper book). They are inspections carried out by the concerned officers of the SDMC quay the aforementioned two sites (one at South Extension Part-II and the other at M-Block Market, Greater Kailash Part-I). These reports not having been considered while passing the order dated 17.7.2015, this Court is of the view that interest of justice requires that these inspection reports should be considered by the Competent Authority before the grievance of the petitioner is answered.

Order dated 17.7.2015 is accordingly set aside. The Competent

Authority will now consider the inspection reports dated 29.6.2015 and pass a speaking order on the grievance of the petitioner preferably within an outer limit of four weeks from the receipt of this order; needless to state that an opportunity of hearing will be granted to the petitioner.

Parties to appear before the competent Authority on 26.8.2016 at 11.00 a.m.

Further needless to add that any observation made by this Court will not influence the Competent Authority while passing an order.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

AUGUST 19, 2016
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